

# EXHIBIT 18

1 STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY  
2 BRANCH 1

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3 STATE OF WISCONSIN,

4 PLAINTIFF,

5 vs.

JURY TRIAL

TRIAL - DAY 1

Case No. 05 CF 381

6 STEVEN A. AVERY,

7 DEFENDANT.

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8 DATE: FEBRUARY 12, 2007

9  
10 BEFORE: Hon. Patrick L. Willis  
Circuit Court Judge

11 APPEARANCES: KENNETH R. KRATZ  
Special Prosecutor  
12 On behalf of the State of Wisconsin.

13 THOMAS J. FALLON  
Special Prosecutor  
14 On behalf of the State of Wisconsin.

15 NORMAN A. GAHN  
Special Prosecutor  
16 On behalf of the State of Wisconsin.

17 DEAN A. STRANG  
Attorney at Law  
18 On behalf of the Defendant.

19 JEROME F. BUTING  
Attorney at Law  
20 On behalf of the Defendant.

21 STEVEN A. AVERY  
Defendant  
22 Appeared in person.

23 TRANSCRIPT OF PROCEEDINGS

24 Reported by Diane Tesheneck, RPR

25 Official Court Reporter

Opening  
Statement

1 At this time we're going to take a very  
2 short break so that the State may get its  
3 equipment ready to present the opening statement.  
4 We'll be back in just a few minutes.

5 (Jury not present.)

6 THE COURT: Five minutes, counsel.

7 ATTORNEY KRATZ: That's fine.

8 (Recess taken.)

9 (Jury present.)

10 THE COURT: You may be seated. Members of  
11 the jury, at this time we're going to hear the  
12 opening statement from the State. Mr. Kratz, you  
13 may begin.

14 ATTORNEY KRATZ: Thank you, Judge. May it  
15 please the Court, ladies and gentlemen of the jury,  
16 Mr. Strang, Mr. Buting, Mr. Avery, good morning.

17 MR. AVERY: Good morning.

18 ATTORNEY KRATZ: We're all a little nervous  
19 this morning. And I think that if we admit that,  
20 we, being the lawyers, and the jurors asked to  
21 decide this important matter, I think we're all  
22 going to be better off.

23 And on behalf of the State, let me first  
24 start by thanking you, thanking you for your jury  
25 service, thanking you for your attention that you

1 are about to give in this case, and thanking you  
2 in detail for what in jury selection we talked  
3 about may perhaps be the most important decision  
4 that you will ever make, at least for the rest of  
5 your lives.

6 You will note, and we have already  
7 introduced, that there are three attorneys on  
8 this case, myself, Ken Kratz, the Calumet County  
9 District Attorney. This is my courthouse. And  
10 I'm joined by Mr. Fallon who is seated directly  
11 to my right. Mr. Fallon is an Assistant Attorney  
12 General with the Department of Justice. And  
13 joining us also is Mr. Norm Gahn.

14 ATTORNEY GAHN: Good morning.

15 ATTORNEY KRATZ: Mr. Gahn is an Assistant  
16 District Attorney in Milwaukee County, Wisconsin.  
17 You will learn that each of us are special  
18 prosecutors in this case. But what's so special  
19 about a special prosecutor? Why would some small  
20 town lawyer from Chilton be in charge of this entire  
21 prosecution, this big of a case? Why would Ken  
22 Kratz be asked to lead up this prosecution?

23 We'll talk about how this case was  
24 assigned over, but just understand, at least for  
25 this person, that although we are all experienced

1 prosecutors, we're doing a favor for Manitowoc  
2 County. It's a rather big favor for Manitowoc  
3 County, but it's a favor nonetheless. It is  
4 helping the Manitowoc County District Attorney's  
5 Office in presenting this case.

6 Mr. Rohrer, your District Attorney,  
7 asked me to take over the case early on. You  
8 will learn about when that happened. But it is  
9 still something that we were simply asked to and  
10 we did, in fact, perform.

11 There's two investigators in this case.  
12 Now, you are going to hear that there were  
13 hundreds of law enforcement officers involved in  
14 this investigation, but these kinds of cases  
15 require direction. They require leadership by  
16 law enforcement officials that have experience.

17 The first lead investigator in the case  
18 who is seated in the courtroom is Mark Wiegert.

19 MR. WIEGERT: Good morning.

20 ATTORNEY KRATZ: Mr Wiegert is an  
21 investigator with the Calumet County Sheriff's  
22 Department.

23 The other lead investigator in this case  
24 is Tom Fassbender. Mr. Fassbender works for the  
25 Department of Justice. He works for a law

1 enforcement branch of the Department of Justice  
2 which is called the Division of Criminal  
3 Investigation.

4 And, again, knowing who we are, knowing  
5 who the five of us are, the prosecution team, we  
6 hope may help in determining what's important in  
7 these cases.

8 The Judge has told you, at least in  
9 brief terms, what an opening statement is. But  
10 often times evidence comes in in bits and pieces,  
11 especially in a six week trial. That isn't  
12 something that you will expect all of the  
13 evidence to come at you at once. And so if we  
14 can provide a road map or an overview of what the  
15 evidence is going to show, that should be helpful  
16 for you.

17 Some juries that I have spoken to, it's  
18 been helpful to describe this process as the  
19 provision of the cover of a jigsaw puzzle box.  
20 All right. You think of evidence as pieces in a  
21 jigsaw puzzle. You wouldn't tell, if you were  
22 handed one piece of a jigsaw puzzle, where that's  
23 going to go. But if you got the box and if you  
24 have the box, some of the pieces are obvious  
25 where they go; some are not so obvious, but at

1       least, it's a guide. It's a help for you as to  
2       where these pieces all fit.

3               Now, before I go any further, I want to  
4       talk to you about something that I know some of  
5       you, in your specific questions, expressed as  
6       some concern and that's the nature of the  
7       evidence that's going to be presented. This is a  
8       very, very serious crime and potentially has  
9       very, very graphic kinds of details that may be  
10      involved or may be presented.

11             But there is some uncertainty about how  
12      much evidence is going to be presented. And I  
13      wanted to assure you, as the lead prosecutor, as  
14      the person responsible for the presentation of  
15      the case a couple of things.

16             Number one, and perhaps most importantly  
17      for you, as the jury, I'm only going to present  
18      those pieces of evidence that are necessary;  
19      those pieces that are necessary to tell you the  
20      entire story. My job is not to present gruesome,  
21      or overly graphic information for you.

22             And I think as we go through this  
23      process, you are going to find that the evidence  
24      is pretty straight forward. It is not  
25      necessarily gruesome or graphic, isn't something

1           that you should fear at this early stage. All  
2           right.

3                     I understand the sensitivities not only  
4           of you, but of most of the people seated on the  
5           left hand side of the courtroom. And I --  
6           actually, I want you to look over to the left  
7           side of the courtroom. That's the Halbach  
8           family.

9                     You are going to see them throughout the  
10          case, friends and family. And I want to assure  
11          you that before the first piece of evidence is  
12          ever introduced in this case, everyone of those  
13          people: The mother, the father, the brothers,  
14          the sisters, the friends, and any other family  
15          members that wanted to, have already seen all of  
16          this evidence. All right.

17                    I sat down with them and as sensitively  
18          as I possibly could, allowed them an opportunity  
19          to review the evidence. That's just something  
20          that a prosecutor should do and that's all been  
21          done. So as you see photographs being presented,  
22          as you see physical evidence being brought into  
23          the courtroom; I want to assure you that the  
24          Halbach family already has seen it.

25                    They have already known the kinds of



1 evidence that are going to be presented. And I  
2 think that that was necessary for you to hear and  
3 necessary for you to understand that this family  
4 does have that information.

5 The Judge has told you that there's four  
6 charges. I'm very, very briefly going to talk  
7 about those four, because I don't want to  
8 reiterate what the Judge did. But there are four  
9 separate charges that the defendant is charged  
10 with: First degree intentional homicide,  
11 mutilation of a corpse, felon in possession of a  
12 firearm and false imprisonment.

13 Now, the Judge instructed you and my job  
14 today in opening statement, again, this isn't  
15 evidence, but it is a help for you; it's the  
16 cover if you will; it's the road map; it's the  
17 overview, to talk about the first legal concept  
18 that you as a jury has to understand. And that's  
19 the concept called being a party to the crime.

20 The Judge has told you that that can be  
21 satisfied either if the defendant committed an  
22 offense himself or if the defendant aided and  
23 abetted another in the commission of the offense.  
24 Now, the first two counts, the homicide and the  
25 mutilation of a corpse are charged as a party to

1 the crime.

2 And so you will learn, at the conclusion  
3 of the case, six weeks from now, if you fast  
4 forward six weeks from now, that the jury  
5 instructions will tell you that if the defendant  
6 committed any of those elements himself, or if  
7 the defendant aided in another -- another --  
8 excuse me -- aided and abetted another in the  
9 commission of those offenses, that you can and  
10 should find him guilty.

11 Now, I can't stand up here and predict  
12 what the defense is going to bring into this  
13 case, what cross-examination they may encounter,  
14 or if they even choose to present any kind of  
15 defense, nor should I. That isn't my job.

16 My job, as the prosecutor, is to present  
17 our case, to present the physical evidence that  
18 we have developed, to present the witnesses that  
19 we have developed to prove our case. But just  
20 understand, and just remember this concept when  
21 it comes time to deciding whether or not the  
22 defendant is guilty.

23 The Judge also told you about something  
24 called elements of the offense. The State has  
25 the burden of proof here. The defense has

1 absolutely no burden. And our burden is to prove  
2 the case, beyond a reasonable doubt.

3 The Judge explained to you already that  
4 beyond a reasonable doubt means a doubt for which  
5 a reason can be given when considering all the  
6 evidence. Let me tell you what it is not,  
7 though. Beyond a reasonable doubt is not beyond  
8 all doubt. It's not 100 percent. And when we  
9 are dealing with a human justice system, you  
10 can't expect beyond all doubt, or beyond a shadow  
11 of a doubt, or comments sometimes that we have  
12 heard about that.

13 It's beyond a reasonable doubt. A doubt  
14 for which a reason can be given. And I'm  
15 standing before you, members of the jury, telling  
16 you that I accept that burden. I will prove this  
17 case, beyond a reasonable doubt. But we didn't  
18 want you going into this case expecting one  
19 hundred percent, or beyond all doubt, because  
20 there are human factors or dynamics that go into  
21 these cases.

22 Each charge, the Judge told you, has  
23 elements of those offense, we're going to go  
24 through those in just a minute. But, also, each  
25 of the four charges should be considered

1           separately. You shouldn't group them together  
2           and decide if he is guilty of all four or none.  
3           Each of the four counts are to be considered  
4           separately. And, in fact, there is separate  
5           evidence for all four of those counts.

6                     And, finally, the defendant is presumed  
7           innocent. As Mr. Avery sits here today, because  
8           you have heard no evidence in this case, he is  
9           presumed by you, or should be presumed by you, to  
10          be innocent. However, and this is a big however,  
11          that presumption disappears at that very moment  
12          when the evidence in this case satisfies you,  
13          beyond a reasonable doubt, that he is guilty of  
14          that offense. That presumption disappears at the  
15          moment that the evidence proves that he is  
16          guilty.

17                    Count 1, the Judge instructed you, has  
18          two elements. And why I'm telling you this and  
19          why I'm showing them on the screen or on a  
20          PowerPoint presentation is because these are  
21          serious, serious crimes; in fact, the most  
22          serious crimes that we have in the State of  
23          Wisconsin.

24                    The legal concepts aren't all that  
25          complex. We are talking about two things that we

1 have to prove, caused the death of somebody and  
2 did it intentionally. Nothing magic about that,  
3 nothing complex about that and all of you should  
4 be able to understand that.

5 The same thing with mutilation of a  
6 corpse, just the two elements; that he mutilated  
7 a corpse and that he did so to conceal a crime  
8 that had been committed. You will hear evidence  
9 in this case about what that crime was that he  
10 was trying to conceal. The crime, as you may  
11 have already guessed, is the first degree  
12 intentional homicide.

13 Mr. Avery is also charged with felon in  
14 possession of a firearm; again, two elements, the  
15 felon in possession. First, that he possessed  
16 the firearm, that seems obvious. And, number 2,  
17 that some time before November of 2005, he had  
18 been convicted of a felony.

19 Now, the Judge has told you that that  
20 second element is stipulated. Stipulation means  
21 that the facts are agreed to by the parties; that  
22 you can take that as already having been proved,  
23 beyond a reasonable doubt, that Mr. Avery has  
24 that felony conviction. And so it's just the  
25 first element of that offense that the State has

1 to prove. Do you all understand that? All  
2 right.

3 Now, false imprisonment has five  
4 separate elements to the offense. Those five  
5 elements are that he confined or restrained, note  
6 that that's in the disjunctive; he either  
7 confined or restrained Teresa Halbach,  
8 intentionally, without her consent. He didn't  
9 have authority and he knew that he didn't have  
10 authority to confine or restrain Ms Halbach.

11 All right. Enough of the civics lesson.  
12 Let's talk about what the evidence is going to  
13 show. On Monday, October 31st, 2005, beginning  
14 at approximately 2:45 p.m., the State intends to  
15 prove to you that the defendant restrained,  
16 murdered, and mutilated a 25 year old  
17 photographer named Teresa Halbach.

18 We're going to prove to you what  
19 happened. We're going to prove to you who  
20 committed this crime. We're going to prove to  
21 you where it happened. We're going to prove to  
22 you when, specifically, it happened. And those  
23 will prove all of the elements of the offense.

24 What we're not going to prove to you,  
25 what the Judge has already told you we don't have

1 to and, in fact, can't prove to you, is why. We  
2 can't prove the why in a case like this. That's  
3 called motive, the reason behind the killing;  
4 what was in Mr. Avery's mind when he decided to  
5 kill this lovely young woman.

6 I'm going to introduce you to somebody.  
7 This remarkable young woman was 25 years of age;  
8 she was single; she was a freelance photographer.  
9 She had her own photography business that was,  
10 although in its infancy, was doing quite well.

11 This woman, and I will remind you  
12 several times in this opening and throughout the  
13 trial, I will remind you that we're talking about  
14 a real person. We're talking about somebody's  
15 daughter, somebody's sister, a lot of people's  
16 friend. Teresa Halbach had her whole life in  
17 front of her and the evidence is going to show  
18 that on Halloween of 2005, that all ended, that  
19 ended in the hands of the defendant, Steven  
20 Avery.

21 It's such a big case, with such a big  
22 job that we have to try to present all of this  
23 investigation. I'm going to start from the  
24 beginning and I'm going to start talking about  
25 the investigation itself.



1 Ms Halbach was reported missing on the  
2 third of November, 2005. Ms Halbach worked for  
3 a -- at least part of her photography business  
4 was that she worked for a publication called Auto  
5 Trader Magazine. You are going to learn through  
6 the case and you are going to hear from several  
7 witnesses from Auto Trader that it is a magazine  
8 that, basically, is responsible for selling  
9 automobiles, some other things, trailers and the  
10 like, but mostly automobiles. And it's a  
11 publication that Teresa supplemented her income  
12 with.

13 Teresa was mostly responsible or mostly  
14 enjoyed taking photographs of weddings and was  
15 already developing quite a niche and quite a  
16 specialty taking pictures of little kids, of  
17 babies and young children. But to supplement her  
18 young business, she worked for Auto Trader  
19 Magazine. So to understand how this case  
20 transforms from a missing person investigation  
21 into what became one of the largest criminal  
22 investigations in Wisconsin history, starting  
23 from the beginning, we're starting from the  
24 investigation, is important for you to  
25 understand.



1                   The investigation determined that Teresa  
2                   Halbach took three pictures or at least had three  
3                   business stops on the 31st of October. Now, one  
4                   of those were a person by the name of  
5                   Mr. Schmitz; one of those was a person by the  
6                   name of Mr. Zipperer. And the third and the last  
7                   stop that she made late in the afternoon on the  
8                   31st was at the Steven Avery Salvage Property.

9                   The investigation early on determined  
10                  that this man, Steven Avery, called Auto Trader  
11                  Magazine at 8:12 that morning, on that very day,  
12                  on the 31st of October. And Mr. Avery asked,  
13                  specifically, that the same woman who has been  
14                  out here before, the same woman who on at least  
15                  six and perhaps more occasions had come out to  
16                  take pictures. Mr. Avery wanted her out there  
17                  the afternoon of the 31st.

18                  Now, two very critical findings very  
19                  early on in this investigation came to light:  
20                  Number 1, that Steven Avery was the one who lured  
21                  Ms Halbach out to the property on the 31st. But  
22                  number 2, and perhaps as importantly, Steven  
23                  Avery was the last person to see Teresa Halbach  
24                  alive.

25                  Who is this man? The Judge told you

1           that there was a lawsuit which was filed against  
2           Manitowoc County and many of you, in fact,  
3           virtually all of you, knew something about Steven  
4           Avery before serving on this particular jury.  
5           Mr. Avery achieved some degree of notoriety back  
6           in 2003 when he was exonerated for a 1985 sexual  
7           assault conviction.

8                     You should know that that exoneration  
9           was based upon DNA evidence. You should know  
10          that that DNA evidence was performed by the  
11          Wisconsin State Crime Laboratory and it was  
12          performed by an analyst, the head of the DNA unit  
13          in Madison, a woman by the name of Sherry  
14          Culhane. I want you to remember that name  
15          because you are going to hear that name later on  
16          in this case.

17                    Mr. Avery, as you already heard, later  
18          filed a civil lawsuit against Manitowoc County  
19          seeking compensation, seeking money for the --  
20          excuse me -- for the time that -- that he was  
21          wrongfully convicted. And it's that degree of  
22          notoriety, that's how Mr. Avery comes to you in  
23          this case. That may or may not have some things  
24          to do with this case.

25                    Now, we understand and the evidence is

1 going to be clear, that Mr. Avery never should  
2 have been convicted in 1985 based upon  
3 eyewitness -- or mistaken eyewitness testimony;  
4 that there wasn't any DNA evidence, at least the  
5 DNA analysis wasn't to the level or to the point  
6 that it is now and certainly isn't anything like  
7 you are going to hear about in this case; and, in  
8 fact, should have been exonerated and was in  
9 2003.

10 We'll also tell you and at the close of  
11 this case I'm going to point to everyone of you  
12 presenting jurors and say that that has  
13 absolutely nothing to do with this case. When  
14 deciding who is accountable for the death of 25  
15 year old Teresa Halbach, Mr. Avery's past and his  
16 past exoneration have nothing to do with this  
17 case.

18 Ms Halbach, as you have heard, or she  
19 comes in this case as the -- part of a missing  
20 persons investigation. Now, Calumet County, and  
21 Mr. Wiegert, as a matter of fact, was in charge  
22 of that missing persons investigation early on.  
23 That's through the 3rd and the 5th. Those parts  
24 of the missing persons investigation that  
25 happened in Calumet County are Calumet County law

1 enforcement's responsibility. Those parts of the  
2 missing persons investigation that happened in  
3 Manitowoc County necessarily and appropriately  
4 are Manitowoc County's responsibility.

5 When looking for a 25 year old freelance  
6 photographer, there is nothing improper about  
7 Manitowoc County being involved in that case.  
8 You are going to learn, however, that on the 5th,  
9 on the 5th of November, at about 2:00 in the  
10 afternoon, Judge Jerome Fox, another judge from  
11 Manitowoc County, one of the three sitting judges  
12 in Manitowoc County, assigned me to be  
13 responsible for the prosecution and to assist in  
14 the investigation of this particular case.

15 You have already heard that the reason  
16 for that was something called a perceived  
17 conflict, an apparent conflict; that is, it may  
18 look bad if Manitowoc County remained involved.  
19 You are going to hear evidence from many law  
20 enforcement officers; in fact, the lead  
21 investigators in this case, that there was no  
22 actual conflict.

23 There was nothing that prohibited, or  
24 precluded, or legally made it impossible for  
25 Manitowoc County to keep performing or keep

1 assisting in this case. But we all felt it  
2 better; myself, Mr. Rohrer, the two district  
3 attorneys, Sheriff Pagel and the law enforcement  
4 officials for Manitowoc, that the case be  
5 transferred over to Calumet County and to DCI,  
6 the Division of Criminal Investigation, with the  
7 State to lead up the investigation.

8 Now, you are going to hear that  
9 Manitowoc County officials remained involved in  
10 the case. They remained involved in the  
11 investigation that when manpower, and we are  
12 going to be talking about how many police  
13 officers were necessary, that they remain in a  
14 helping or a support role, but the case is, in  
15 fact, turned over to Calumet County.

16 This particular photograph, I want you  
17 to look at for quite a bit of time as I'm  
18 talking. This is the Avery Salvage Yard, located  
19 in the Town of Gibson. This is a photo that you  
20 are going to see a lot during the course of this  
21 case. And this is, for the next six weeks, a  
22 property that you are going to come to know very,  
23 very well.

24 And so as Mr. Fallon and Mr. Gahn and I  
25 were talking about this opening statement, we

1 thought it appropriate that we introduce you to  
2 the Avery salvage property. First of all, it's a  
3 40 acre property. The entire square here is 40  
4 acres.

5 What you also need to understand is that  
6 all of these, appear to be little dots, are cars.  
7 These are all junked vehicles in the Avery  
8 salvage property. And a number that you are  
9 going to hear is that there are about 4,000  
10 junked vehicles on the Avery Salvage property.

11 There's four residences, four places  
12 where people live on the Avery salvage property.  
13 The first, in the lower left hand corner, which  
14 is the northwest corner of the property, is  
15 Steven Avery's trailer. That's where Steven  
16 Avery lived on the 31st of October.

17 Living next to Steven was his sister,  
18 Barb Janda. Barb had four sons that were living  
19 with her at the time. But when you kind of look  
20 at this property it's important to know where  
21 Barb Janda's trailer is.

22 Steven's parents, Allen and Delores  
23 Avery, also had a trailer, had a residence on the  
24 property. And that was up closer to what you  
25 will find out are some business buildings, the

1 salvage business itself was kind of up in this  
2 quadrant, or this corner of the yard.

3 And, finally, Steven's brother, Charles  
4 Avery, Chuck, also had a trailer on the property.  
5 All right.

6 Now, you are going to hear that  
7 surrounding this property on three sides was an  
8 active, working gravel quarry. And so we're  
9 going to have some larger aerial photos that  
10 we're going to show you in just a minute, but  
11 just to give you an idea of what's around this  
12 property, not just the 40 acres of search area,  
13 but hundreds of acres that surrounded that that  
14 were also included in the search.

15 Members of the jury, the evidence is  
16 going to show and you are going to hear from  
17 officers, when they talk about the search efforts  
18 in this case, that a search area this size is  
19 nothing short of overwhelming. All right. All  
20 of the places that the officers can look is  
21 absolutely overwhelming.

22 If you know anything about the case you  
23 will understand this event. But on Saturday, the  
24 5th of November, Pam and Nikole Sturm, two  
25 citizens, two citizen searchers, were given



1 permission and did search the Avery salvage  
2 property.

3 Pam and Nikole found the needle in the  
4 haystack. Pam and Nikole Sturm found the one  
5 vehicle on the property that all of the citizen  
6 searchers that you are going to hear about were  
7 looking for.

8 Now, there are several things that the  
9 evidence is going to show. And as you look at  
10 this photograph, several things about the  
11 attempts at whoever placed this vehicle here, to  
12 disguise it, to hide it, attempts to obscure its  
13 detection, you are going to learn, members of the  
14 jury, through this evidence in the case, that the  
15 vehicle was locked, that the four doors on this  
16 vehicle were locked when Pam and Nikole came upon  
17 it.

18 You are going to learn that the license  
19 plates were both removed, both the front and back  
20 license plates were removed from the vehicle.  
21 You are going to learn the battery was  
22 disconnected and you are also going to learn that  
23 the vehicle identification number was necessary  
24 to, in fact, identify this as Teresa Halbach's  
25 vehicle.



1                   Now, the evidence is also going to show  
2                   you where on the property Teresa Halbach's  
3                   vehicle was found. It was found in -- not  
4                   accidentally -- the furthest point from the  
5                   defendant's trailer. Again, you are going to  
6                   find that it was intentionally obscured, that it  
7                   had immediate access to something called a car  
8                   crusher on the property.

9                   And, again, just to orient you, Steven  
10                  Avery's trailer is in the lower left hand portion  
11                  of this particular photograph. Where it was  
12                  found was not an accident. We'll also tell you,  
13                  during the course of the introduction of the  
14                  testimony, that it's important where it wasn't  
15                  found. It wasn't found on a roadway. Wasn't  
16                  found in some mall parking lot. It was found on  
17                  the Avery salvage property, the family business  
18                  property.

19                 I talked about the car crusher; you will  
20                 hear a little bit about that piece of equipment  
21                 that was near or right next to Teresa Halbach's  
22                 vehicle. You are going to learn and you are  
23                 going to hear evidence sometime through this six  
24                 weeks how this piece of equipment works, how a  
25                 regular looking vehicle, car, SUV, truck, starts

1 out looking like a regular vehicle and ends up  
2 flattened or smashed.

3 You are going to learn why it's  
4 important that Teresa's vehicle was next to the  
5 car crusher and you are going to learn the  
6 numbers of crushed vehicles and how easily Teresa  
7 Halbach's vehicle could never have been found in  
8 this case. Could have been slipped in between,  
9 if you will, one of those other cars.

10 You will hear about a lot of  
11 professionals that were asked to perform  
12 assistance in this case. You are going to hear  
13 about law enforcement professionals; you are  
14 going to hear about Crime Lab analysts; you are  
15 going to hear about some very, very, well  
16 qualified expert witnesses.

17 And all of those professionals have two  
18 legs. One of them, though, has four. It's a  
19 Belgian Shepherd named Brutus. Brutus is a  
20 search and rescue -- or search and recovery dog  
21 that is insensitively called a "cadaver dog".

22 What Brutus does is one thing. Brutus  
23 is highly trained. And you are going to hear  
24 testimony from Brutus' handler, Julie Cramer.  
25 Brutus does one thing and that's find where a

1           deceased person has been.

2           The first official, first professional,  
3           to approach this vehicle after it's found, after  
4           law enforcement secures that area so nobody else  
5           can get around there, the first professional was  
6           a four legged variety. It was Brutus. It was a  
7           canine.

8           And Brutus, you are going to hear, was  
9           asked -- not directed towards this vehicle, but  
10          asked to just search around this particular  
11          location. You are going to hear evidence that  
12          late in the afternoon on the 5th, after the  
13          vehicle was found, after a search warrant was  
14          already obtained in this case, that Brutus, when  
15          approaching Teresa Halbach's vehicle, alerted.

16          It's called hitting on the vehicle. It  
17          was quite a dramatic alert. And you are going to  
18          hear from Ms Cramer about that. Sadly and  
19          unfortunately, that meant one thing to the  
20          handler and that meant one thing to the lead  
21          investigators in the case. Early on, they  
22          suspected, because of Brutus, because of this  
23          search and rescue dog, because of this cadaver  
24          dog, that a deceased individual either was in the  
25          back of this SUV, or at some point had been in

1 the back of that SUV.

2 Now, importantly, you are also going to  
3 hear that the police decided not to touch the  
4 vehicle at that time. The police decided not to  
5 process it even when the Crime Lab was on the  
6 scene.

7 You are going to hear that the Crime Lab  
8 loaded this vehicle onto an enclosed trailer,  
9 trucked the enclosed and intact SUV all the way  
10 to Madison, where on a Sunday, for a very brief  
11 amount of time, but mostly on Monday, that  
12 vehicle was processed by the experts. Processed  
13 by those state agents, by those State Crime Lab  
14 expert employees, analysts, when they made some  
15 very dramatic and very important findings in the  
16 case.

17 I don't want to get ahead of myself.  
18 Because on November 5th, on that first night, on  
19 that first afternoon, there were places to look,  
20 as you can imagine. After Teresa Halbach's  
21 vehicle was found on the Avery salvage property,  
22 Mr. Wiegert, Mr. Fassbender, directing many law  
23 enforcement officials, had a job to do.

24 Now, you saw the size of the Avery  
25 salvage property. You are going to hear

1 testimony from Mr. Fassbender. He's going to  
2 provide you with an idea about the methodology,  
3 about the plan, the search plan in this case.

4 You are going to hear Agent Fassbender  
5 talk about missing persons investigations and  
6 when they go from missing persons to criminal  
7 investigations, how their thought process  
8 changes. But at that early stage, when they find  
9 the vehicle, when they don't know that there is  
10 any blood in the back of the vehicle, when they  
11 don't know if a body is involved in this case,  
12 that Agent Fassbender and every other law  
13 enforcement officer, you will hear, at that  
14 scene, had one thing in mind and that was to find  
15 Teresa. The job of the police at the time was to  
16 find Karen Halbach's daughter.

17 And you are going to hear the evidence  
18 that the officers made very, very quick work of  
19 searching all of the residences on the Avery  
20 salvage property, all of the four residences, all  
21 of the outbuildings. They are searching for  
22 Teresa Halbach and the search plan, again, is to  
23 find the victim, find the victim's body.

24 But a secondary obligation of theirs is  
25 also to look for obvious signs of evidence,

1 right? You don't have to watch CSI to know that.  
2 At least a first kind of sweep, or a first kind  
3 of look through, or a first kind of search of all  
4 of these residences are to try to find obvious  
5 signs of a crime if, in fact, a crime did occur,  
6 or something that is going to help law  
7 enforcement find Teresa Halbach. Why I say all  
8 that is because Steven Avery -- With search  
9 warrant in hand, Steven Avery's residence was  
10 searched on the 5th.

11 Now, again, we're looking for Teresa's  
12 body, hopefully alive, but if not, it is  
13 important to find if she's on that property.  
14 Steven Avery's garage is searched, other  
15 residences, all of the other buildings on the  
16 residence are searched, the salvage business  
17 itself. But the 4,000 vehicles, in what you will  
18 hear was a torrential downpour, were also  
19 examined for the first time on the evening of the  
20 5th.

21 Now, law enforcement officers were  
22 involved in that, but Brutus' friends were also  
23 involved in that, other canines, the rest of the  
24 team, the other search and rescue animals, the  
25 canines, were taken in a downpour, in the pitch

1 dark, out on a 40 acre property. And everyone of  
2 these cars was encircled by one of those dogs  
3 trying to find Teresa Halbach.

4 Please recall, at this early stage, the  
5 police don't know what they are looking for yet.  
6 They don't really have an idea yet of the kinds  
7 of things that they are looking for. So when you  
8 remember this search plan, you will hear evidence  
9 and some officers may even call it the funnel  
10 approach, nothing fancy about calling it the  
11 funnel approach, it makes sense.

12 It's a way to describe search efforts.  
13 It is actually an interviewing technique as well.  
14 But it's a way to find evidence in a funnel type  
15 of approach. We're looking for the body first.  
16 Then we're looking for obvious signs of evidence.  
17 Then as you get closer and closer into more  
18 detail, more thorough, more directed searches,  
19 because you are able to go back into all of those  
20 places and all of those properties, that's the  
21 methodology.

22 And as you hear officers testify  
23 throughout this case, when they testify on the  
24 witness stand, remember that funnel approach.  
25 Remember that kind of methodology as they talk



1           about these kinds of things. But make no  
2           mistake, that on the first night, they are  
3           looking for Teresa and they are hoping to find  
4           Teresa alive.

5                       When that was unsuccessful, the next  
6           morning, on the 6th, Mr. Fassbender, Mr. Wiegert,  
7           were able to secure some help. They needed  
8           bodies. They needed some cops. They needed some  
9           volunteers. And so they got volunteer  
10          firefighters from all over the Manitowoc and  
11          Calumet County areas.

12                     And they all showed up in force, en  
13          masse, on the morning of Sunday, November 6th.  
14          And for the first time, everyone of those 4,000  
15          vehicles was opened up. Everyone of those 4,000  
16          trunks was opened by a firefighter with a police  
17          officer with them, looking for the body of Teresa  
18          Halbach.

19                     Also on Sunday, November 6th, a firearm  
20          was found, or recovered; it was actually found  
21          the evening before. But it was seized; it was  
22          recovered. It was hanging over the bed of the  
23          defendant, Steven Avery. He thought it was  
24          appropriate to recover that as a piece of  
25          evidence and, in fact, it was.



1                   You are going to hear that the brand  
2                   name of this semi-automatic .22 caliber rifle is  
3                   Marlin. You are going to hear that it is  
4                   something called tube loaded. Not that any of  
5                   these things are going to mean much to you at  
6                   this point, but there are a number of bullets  
7                   that are able to be loaded into this  
8                   semi-automatic rifle.

9                   You are going to hear, by the way,  
10                  although hanging over Mr. Avery's bed and his  
11                  exercising control over that, should be obvious  
12                  that on the 31st of October, Mr. Avery exercised  
13                  a great deal more control.

14                 A deserving piece of evidence was seized  
15                 on the -- Sunday, the 6th of November. And it  
16                 is, what we believe, the last recorded voice of  
17                 25 year old Teresa Halbach. When Mr. Avery, the  
18                 evidence will show, made arrangements to have  
19                 this young woman come out to his property that  
20                 afternoon, he didn't use his own name.

21                 He didn't use the name Steven Avery.  
22                 Even though Ms Halbach had been out to the  
23                 property, as I told you, on a number of occasions  
24                 before; Mr. Avery used a different person's name.  
25                 He used the name B. Janda, the initial B. Janda,

1 J-a-n-d-a. That's Barb Janda, can be Barb Janda,  
2 but when we called the *Auto Trader Magazine*  
3 people in Milwaukee, and you are going to hear  
4 from Ms Schuster and Ms Pliszka, two employees of  
5 *Auto Trader*, Mr. Avery used the name and used the  
6 number for B. Janda.

7 Teresa Halbach doesn't know who B. Janda  
8 is. You are going to hear evidence that Ms  
9 Halbach called back the telephone number for Barb  
10 Janda and she left this voice mail. This voice  
11 mail was recovered, was retrieved. You are going  
12 to hear this voice mail.

13 And you are going to hear from Teresa in  
14 her own words, in this courtroom, that she got  
15 the message, that she knows that you want me to  
16 come out to the property. Teresa Halbach tells  
17 B. Janda that she's going to be out there  
18 sometime after 2:00 p.m., that very day, on the  
19 31st of October.

20 This will be important for you in  
21 determining a timeline. Where was Teresa all  
22 that day; was this before or after she went to  
23 the Schmitz photo shoot and the Zipperer photo  
24 shoot. That's going to be uncontroverted.  
25 Absolutely, this is the last stop that she made

1 on the 31st of October.

2 Two days into this, folks, we're now on  
3 Monday, the 7th of November, and the first  
4 results come from the Wisconsin State Crime  
5 Laboratory. The first results find several  
6 things.

7 First of all, in the back cargo area of  
8 Teresa's SUV, they find that there's female  
9 blood. They find there is a lot of female blood  
10 in the back of Teresa's SUV. But they also  
11 found, interestingly, male blood, at least at  
12 that early stage with their early typing, they  
13 could find that it was male blood.

14 And interestingly and importantly that  
15 already on Monday, the 7th of November, there is  
16 male blood found in the victim's vehicle in at  
17 least six different locations. Six different  
18 places they find male blood. Mr. Wiegert,  
19 Mr. Fassbender, all of the investigators don't  
20 understand the significance of the male blood  
21 being in six different places. They do, however,  
22 understand the significance of a lot of female  
23 blood. And they suspect early on that something  
24 horrible has come to Teresa Halbach.

25 Also on Monday, a burn barrel was

1 discovered, not just any burn barrel. Again,  
2 here's a picture, an overview, a part of the  
3 aerial photograph of the Avery property itself.  
4 There is Steven Avery's trailer and located  
5 outside of Steven Avery's trailer was a burn  
6 barrel that was recovered.

7 Now, again, not just any burn barrel,  
8 but Steven Avery's burn barrel. And you will  
9 hear later in my opening and you will hear a lot  
10 of evidence about the trial, about what critical  
11 pieces of information were found from that burn  
12 barrel. But put it in perspective, on Monday,  
13 that was found.

14 I provide this slide just as another  
15 example for you of where that burn barrel was in  
16 relationship, not only to the proximity of Steven  
17 Avery's trailer, but the proximity to this red  
18 Dodge Caravan. You may also have guessed, this  
19 is the car that Steven Avery asked Teresa Halbach  
20 to come take a picture of. All right. So the  
21 proximity of the burn barrel to his front door  
22 and also to the Dodge Caravan will be important  
23 in the determination at the close of this case  
24 when you decide who was responsible for these  
25 crimes.

1           The next day, three critical pieces of  
2           evidence are found on Tuesday, the 8th. Now, we  
3           talked about these more detailed searches. On  
4           Tuesday, one of these more detailed searches  
5           occurred in Mr. Avery's trailer.

6           You are going to hear evidence that this  
7           bookcase was pulled out, was jostled about. You  
8           are going to hear evidence about this particular  
9           binder having been pulled out of the bookcase.  
10          And after the officers looked through it, how it  
11          was slammed back in as the book case was actually  
12          pulled out from the wall.

13          And after jostling and after searching  
14          it, after slamming things around and after  
15          putting the bookcase back in its location, you  
16          are going to hear this is what the officers saw.  
17          They saw a Toyota vehicle key in the bedroom of  
18          Mr. Avery. You are going to hear evidence that  
19          it had obvious evidentiary value, that the  
20          officers at that time stopped what they were  
21          doing and Investigator Dan Kucharski of the  
22          Calumet County Sheriff's Department seized or  
23          took control of that key during that more  
24          detailed search.

25          More detailed searches were also

1 occurring at the same time of the entire Avery  
2 Salvage Yard, which included now officers,  
3 volunteer firefighters, going through all of the  
4 cars again; 4,000 searches occurred again, on  
5 Tuesday. But you are going to hear this time  
6 they weren't looking for a body, at this time  
7 they were looking for stuff. They were looking  
8 for evidence.

9 After the body wasn't found in their  
10 first search, they are going back and they are  
11 looking for items of obvious evidentiary value.  
12 You are going to hear testimony they found  
13 something of obvious evidentiary value; they  
14 found the victim, Teresa Halbach's, license  
15 plates crumpled up in a station wagon.

16 I just show you this slide to show you  
17 what the vehicle looked like, the station wagon  
18 that the license plates were found in. And also  
19 provide this aerial photograph to give you an  
20 idea of the vehicle that the license plates were  
21 found in.

22 Very quickly, I want to remind you of  
23 Steven Avery's trailer is down in the lower left  
24 hand corner; that the access road leading to  
25 Mr. Avery's trailer comes from the top of this

1 figure down towards the right. Teresa Halbach's  
2 vehicle is found in the first vehicle (sic) next  
3 to the access road on its way to Steven Avery's  
4 trailer. Again, the evidence is going to show,  
5 not by accident, the proximity to the defendant's  
6 roadway, the proximity to the defendant's  
7 trailer, all becoming important.

8 Now, I told you that there were three  
9 important discoveries on the 8th. And the third  
10 and perhaps the most important discovery that day  
11 is something that's being referred to as a burn  
12 area. Again, just to orient you, it's the same  
13 kind of picture that we have been looking at:  
14 Steven Avery's trailer; Steven Avery's garage.  
15 The Dodge Caravan, the van that Ms Halbach was  
16 taking pictures of, was located right there; and  
17 there's the burn area.

18 The proximity of this burn area to the  
19 garage is obvious; the proximity of this burn  
20 area to Mr. Avery's trailer itself is obvious.  
21 To provide you with another view of this burn  
22 area, again located -- you can see his trailer,  
23 you can see the garage on the right.

24 But, importantly, that burn area  
25 contained human remains. It contained obvious



1 bone fragments. Even to the untrained officers  
2 that stumbled upon this particular burn area,  
3 even when they called over the Crime Lab to  
4 process this particular location, it was obvious  
5 that there were human remains in this particular  
6 burn area.

7 Now, this next picture is particularly  
8 important because it was taken before any  
9 processing begins. There's the burn area that  
10 we're talking about. That's the burn area that  
11 contained the obvious human remains. You will  
12 see and you will hear from the officers who were  
13 at the scene, that this burn area, from the first  
14 night, was guarded, was guarded by Mr. Avery's  
15 German Shepherd. I believe his name was Bear.

16 But this particular German Shepherd, not  
17 of the friendly sort, did not allow law  
18 enforcement officers to get close to this burn  
19 area. Did not allow any of the canine help that  
20 was out there to get close to that area. And any  
21 time -- excuse me -- law enforcement even got  
22 close to the burn area, Bear made sure that they  
23 were shooed away.

24 But I think it's also important about  
25 this case, when we talk about proximity, there



1        isn't any question who exercises control over  
2        this burn area. And in the background, just --  
3        just see how close it is to that van that Teresa  
4        Halbach was asked to take a picture of.

5                The next day, Wednesday, November 9th,  
6        was the first time that recovered bone fragments  
7        from that burn area are identified by an  
8        anthropologist. An anthropologist is a  
9        professional who looks at bones and can identify  
10       whether they are human, or that they are  
11       non-human, where they go. We'll talk about that  
12       a little bit later.

13               But even though these fragments are  
14       small, even though they are burned almost beyond  
15       recognition, on Wednesday, the 9th, they  
16       determined that those were, in fact, adult female  
17       remains found right behind the defendant's  
18       garage.

19               All right. This is the first image that  
20       is not a photograph that I'm showing you. This  
21       is computer generated. And we're going to hear  
22       from a man who created these images. His name is  
23       Tim Austin. He works for the State patrol, the  
24       State of Wisconsin, in scene reconstruction.

25               And what Tim Austin will tell you is

1           that he was out at the scene -- and we'll talk  
2           about this a little bit later -- but he was out  
3           at the scene and took over 4100 measurements out  
4           at the scene. And after taking his own  
5           photographs and after taking over 4100 images --  
6           excuse me -- measurements, he was able to  
7           recreate some of these scenes for you, for the  
8           jury.

9                       And these are created for the jury so  
10          that you can see things that the naked eye can't  
11          see; so that you can see things that photographs  
12          can't show; so that you can see relationships  
13          between some evidence and fixed objects or other  
14          evidence that's found. And so as you see this  
15          perspective you will see that you are up, you  
16          know, dozens of feet above the ground. And it's  
17          something, again, unless you are that tall, you  
18          are not going to be able to see this kind of  
19          location.

20                      But this particular computer generated  
21          animation is important to embrace or to -- for a  
22          jury to look at in the case because the burn area  
23          is clearly visible. How close it is to  
24          Mr. Avery's garage; how close it is to the  
25          trailer; how close it is to the other area,

1        what's called the curtilage, that is the area  
2        that surrounds Mr. Avery's property, all becomes  
3        important.

4                All right. So these are -- And when  
5        something is not a picture, when it, in fact, was  
6        created through computer animation or computer  
7        generation, I will let you know that.

8                One of the bones that was recovered was  
9        a long bone. And I'm showing you this for a  
10       reason, in my opening statement, so that you  
11       understand what we're looking at here. That we  
12       aren't just looking at some bone in abstract.  
13       We're not just looking at some DNA profile.

14               It's Teresa Halbach's shinbone. All  
15       right. It's Karen Halbach's daughter's tibia.  
16       And attached to Teresa Halbach's tibia was some  
17       tissue. Now, despite Mr. Avery -- The evidence  
18       will show, that despite Mr. Avery's effort to  
19       completely obliterate all these bones, by  
20       burning, to incinerate these bones completely,  
21       this bone survived.

22               This tissue that was on the bone  
23       survived, which allowed a DNA match, which  
24       allowed the State of Wisconsin analyst, guess  
25       who, Sherry Culhane, when she performed an

1 analysis on that tissue, to match it with the  
2 blood found in the back of the SUV; with a soda  
3 can that is found in the front of the SUV; and  
4 with a standard.

5 Now, the standard is also called an  
6 exemplar. You are going to hear those two  
7 statements, but Teresa Halbach, before the 31st  
8 of October, had a Pap smear performed, a cervical  
9 swab that was performed. And thankfully for us,  
10 that was kept at Bellin, up in Green Bay. Well,  
11 Sherry, also -- Ms Culhane, also, was able to  
12 develop a DNA profile from the Pap smear.

13 We know that's Teresa. And from that  
14 exemplar, from that example, matches the tissue  
15 on the leg bone; matches the blood; matches the  
16 soda can. We can say with 100 percent certainty  
17 that those human remains are those of Teresa  
18 Halbach.

19 The first 11 days of this case become  
20 extremely important. And for just about five  
21 minutes here, I want to give you those 11 days  
22 in. And what you have just heard, that part of  
23 the investigation, you have only heard 11 days  
24 worth of investigation, which has gone on 15  
25 months now. But the first 11 days are important

1 and I want to just run through those for you.

2 Ms Halbach is killed on the 31st of  
3 October, at the Steven Avery salvage property,  
4 sometime after 2:45 p.m. You are going to hear  
5 from a gentleman by the name of Tom Pearce, who  
6 is Teresa Halbach's business partner, that she  
7 doesn't show up for work on the 1st or 2nd.

8 And on the 3rd, Teresa Halbach is  
9 reported missing to law enforcement authorities.

10 That's when the missing persons investigation,  
11 from a law enforcement standpoint, begins. I  
12 think, if you will, as to the feelings of the  
13 Halbach family and friends and how worried they  
14 are even on the 3rd.

15 But on the 4th, you are going to hear  
16 from a witness named Ryan Hillegas who helped  
17 coordinate the citizen search efforts.

18 You are going to hear that there was  
19 something called cell tracking. We're going to  
20 hear a little bit about that. A cell phone  
21 actually is almost a transmitting device and it  
22 pings or beeps, if you will, off of cell towers  
23 all over the state, whenever you carry it in your  
24 pocket, whether it's on or not. You are going to  
25 hear evidence about attempts to find Teresa's

1 cell phone; if we find her cell phone, we can  
2 find Teresa.

3 We also looked at those early stages for  
4 whether or not she used any of her credit cards.  
5 Where is Teresa Halbach? We try to find that  
6 out.

7 You are going to hear that a gentleman  
8 by the name of Curt Drumm, a pilot in the  
9 Manitowoc area, volunteered his airplane and  
10 helped law enforcement fly over Mr. Zipperer's  
11 residence and Mr. Schmitz's residence and the  
12 Avery compound and any of the roads that may have  
13 led to and from there to try and find Teresa  
14 Halbach.

15 On the 5th, we know that Teresa's  
16 vehicle was found at the Avery salvage property.  
17 You will hear that search warrants were obtained.  
18 You will hear during the course of this case that  
19 a search warrant is nothing more than a piece of  
20 paper. It's a judicial authorization; a judge  
21 authorizes law enforcement officers to search the  
22 property, in private areas. And we got many,  
23 many search warrants in this case and searched  
24 for her body.

25 You have heard already, that on the 6th,

1 firearms are obtained or taken from Mr. Avery's  
2 bedroom; his garage is searched, at least the  
3 first search of the garage for those items of  
4 obvious evidentiary value. But remember, on that  
5 Sunday we don't have any results yet, from the  
6 Crime Lab. Those don't come until sometime on  
7 Monday, when the Crime Lab determines that both  
8 male and female blood is located in the SUV.

9 We search, for the first time, all of  
10 the junked vehicles, at least all of the trunks  
11 are searched.

12 And Mr. Avery's burn barrel is  
13 discovered and searched.

14 And other things will happen and you are  
15 going to hear from other officers that the  
16 surrounding areas, not just the 40 acres, but  
17 hundreds of acres of gravel pits and the like are  
18 being searched in these early days.

19 On Tuesday, perhaps the most important  
20 of all the days as far as discoveries go, those  
21 three critical discoveries are made: The Toyota  
22 key, the license plates, and the burn area behind  
23 the defendant's property.

24 On Wednesday, the 9th, there is an  
25 identification made of male blood in the victim's



1 vehicle. That blood matches the DNA profile of  
2 the defendant, Steven Avery. And bones are  
3 recovered and determined to be that of an adult  
4 female.

5 You will hear on the 10th, on Thursday,  
6 the burn area is further excavated by arson  
7 investigators and other Crime Lab and other types  
8 of officials but, interestingly, the defendant's  
9 DNA is now found on the key.

10 And, finally, on Friday, the 11th, the  
11 female blood that was found, the great pool, if  
12 you will, of female blood, in the cargo area, is  
13 now matched. It is determined to match the soda  
14 can -- the saliva from the diet Wild Cherry  
15 Pepsi, I believe, soda can in the front of  
16 Teresa's car. The blood is now presumed to be  
17 that of the victim, Teresa Halbach.

18 You have heard the term that they told  
19 me there would be no math, well, there is going  
20 to be some science. And here's where I have to  
21 at least give you an overview of what the science  
22 of this case is going to be.

23 The science, the blood part of the  
24 science, the DNA analysis and explanation of this  
25 case is going to come from this gentleman right

1 here, Norm Gahn. Mr. Gahn, you will learn by his  
2 examination, is quite knowledgeable in DNA and DNA  
3 from a prosecution standpoint. And in all  
4 honesty and in all candor, that's why he was  
5 added to the prosecution team, because this is  
6 such an important part of the case. The science  
7 becomes very, very important.

8 You are going to hear about a DNA  
9 analyst from the Wisconsin Crime Lab named Sherry  
10 Culhane. Again, Ms Culhane, almost unbelievably,  
11 is the very analyst that exonerates Mr. Steven  
12 Avery several years earlier. She's the same  
13 analyst that does the detailed DNA work on  
14 Mr. Avery's work with the Innocence Project and  
15 frees Mr. Avery from his incarceration.

16 Well, that same woman, Sherry Culhane,  
17 processes this vehicle. Because she's the unit  
18 head, because this is such an important case, she  
19 does the work herself. She does all of the  
20 analysis of all of the blood that's found in  
21 these cases.

22 You are going to hear from Ms Culhane,  
23 through the assistance of Mr. Gahn, what DNA is,  
24 that it is a genetic fingerprint, if you will.  
25 Provides an opportunity, as most of you may

1 already know, to take a sample and to take a  
2 unknown sample, something like blood that's found  
3 in the back of an SUV and to take a known DNA  
4 sample, since our DNA is all the same in all of  
5 our bodily fluids.

6 Our blood has the same DNA as our  
7 saliva, as our semen, as the skin cells, as our  
8 tissue; it's all the same DNA. So once you  
9 develop a profile, each of us all has different  
10 DNA; it's unique to each of us. And Mr. Gahn  
11 will explain all of that for you.

12 But with that as the background, Ms  
13 Culhane was able to establish all of the places  
14 in that SUV that had Teresa Halbach's DNA. You  
15 are going to learn that they found a large  
16 quantity of the blood and DNA in the cargo floor  
17 and the side panel. The back cargo door, you are  
18 going to hear that there were splatters, spatters  
19 of Teresa's blood in the back cargo door.

20 You are going to hear that on the rear  
21 tailgate there were droplets of Teresa's blood;  
22 her DNA is found on the door handle; and, also,  
23 as I have already alluded and you might expect,  
24 the saliva from the soda can, Ms Culhane will  
25 find DNA evidence.

1 I told you about male blood that was in  
2 the SUV. On Wednesday, the 9th of November,  
3 Steven Avery subjected to a very thorough medical  
4 examination, again, as result of a warrant, as a  
5 result of a judicial authorization to do that  
6 particular kind of examination. And what they  
7 found was a very, very deep cut to Mr. Avery's  
8 right middle finger but, importantly, on the  
9 outside of his right middle finger. And that's  
10 where the cut was.

11 This cut was actively bleeding on the  
12 31st of October. And I guess, thankfully, for  
13 the State. And as a jury, I hope at the  
14 conclusion of this case you will say thankfully  
15 for you. Because DNA analysis was then possible  
16 because of his actively bleeding, of his leaving  
17 his DNA behind, inside of Teresa's vehicle.

18 Ms Culhane will tell you that the  
19 defendant's blood was found in at least six  
20 places in Teresa Halbach's SUV including the rear  
21 passenger door, smeared or wiped on the rear  
22 passenger door. Okay. There's a front door;  
23 there's a back door; kind of like a four door  
24 car. It was in the backdoor and it's along the  
25 edge or along the metal of the rear passenger

1 door. That's Steven Avery's blood. That's how  
2 much blood he left on the side of the door.

3 We have heard about the defendant's  
4 blood on the ignition. That positively matched  
5 that of Steven Avery. As you think about this  
6 case and I will argue at the end of the case, but  
7 there isn't any secret and the defense  
8 understands this is as well, an actively bleeding  
9 middle right finger. And when you look at the --  
10 excuse me -- When you look at the smear, kind of  
11 visualize turning the ignition and how that can  
12 smear from the outside of the middle finger and  
13 leave that particular kind of DNA evidence.

14 Other places that the defendant bled  
15 inside of the victim's car included blood on her  
16 CD case in her front seat. Both front seats had  
17 droplets of Mr. Avery's blood on it. The rear  
18 tailgate, remember I told you there was a droplet  
19 of Teresa's blood; because Mr. Avery is actively  
20 bleeding, there is a droplet of his blood as  
21 well. And also on the front console floor, is  
22 kind of up in that particular area.

23 Sherry Culhane and Mr. Gahn are better  
24 able to explain all those for you, but it's  
25 important for you to know. Now, again, the

1           jigsaw puzzle, when you hear the evidence and  
2           when you have to decide who killed Teresa  
3           Halbach, this evidence points to one person.

4                     Now, Mr. Gahn and his questioning, and  
5           Ms Culhane is going to tell you, that DNA  
6           evidence, again, is not just from blood. It can  
7           be from skin cells which are left through  
8           perspiration, sweat, okay, saliva and sweat and  
9           all those other kinds of bodily fluids that we  
10          talked about. So when somebody's hands are  
11          sweating and you handle something, it's possible  
12          that you can leave your DNA on that thing that  
13          you handled.

14                    You heard a suggestion already in which  
15          there will be evidence in this case that the  
16          battery was disconnected on Ms Halbach's vehicle.  
17          We'll tell you, or at least we'll argue as to why  
18          that happened. But importantly, in reaching up  
19          underneath the hood, to open up Teresa Halbach's  
20          vehicle, Mr. Avery was kind enough to leave his  
21          DNA on the hood latch. Okay. That will come  
22          from Sherry Culhane as well.

23                    In handling Ms Halbach's key that starts  
24          the ignition and putting it into his bedroom,  
25          Mr. Avery was kind enough to leave his DNA on

1           that portion of the Toyota key that was found.  
2           So that's part of the science.

3                     Other science is going to include things  
4           like teeth, teeth that were recovered from the  
5           burn area. This part of the science, by the way,  
6           will be handled by Mr. Fallon, and other expert  
7           witnesses, but most importantly, through somebody  
8           called a forensic odontologist.

9                     That's a big word, kind of scared me  
10          when I first heard it. Gentleman's name is  
11          Dr. Donald Simley. Mr. Simley is a odontologist.  
12          From a forensic standpoint, it's kind of a  
13          dentist who matches stuff up.

14                    So Mr -- or Dr. Simley, the dentist, the  
15          odontologist, will show you a -- what's called a  
16          panorex x-ray. We went to Teresa's dentist. We  
17          got her x-rays from when she had work being done  
18          and Dr. Simley will show you tooth number 31,  
19          which is the second last tooth in the bottom left  
20          jaw.

21                    Dr. Simley will also tell you that  
22          x-rays were taken of teeth that were found from  
23          the burn area. He will show you tooth number 31  
24          that was actually recovered from the burn area  
25          and will allow the jury to make their own



1           comparisons.

2                   We talked about an anthropologist. Our  
3 anthropologist is Dr. Leslie Eisenberg.  
4 Dr. Eisenberg will tell you about her  
5 credentials, about how she does this -- this  
6 whole kind of work. And although, unfortunately,  
7 the bones that she had to deal with and, again,  
8 we aren't talking about a full skeleton that was  
9 found in that -- that bone (sic) pit.

10                   If we did, by the way, we may not be  
11 including a charge against Mr. Avery for  
12 mutilation of a corpse. But mutilation of this  
13 little girl -- excuse me -- not this little girl,  
14 but this young woman, absolutely occurred.  
15 Because this is what's left, small tiny pieces of  
16 bone fragment.

17                   And when you talk about a jigsaw puzzle,  
18 when you talk about trying to put all of this  
19 together; it's a very, very difficult process.  
20 And when I asked -- And the testimony, actually,  
21 of Dr. Eisenberg is going to allude to this  
22 jigsaw puzzle kind of analogy and we don't even  
23 have a box or a cover to go on. Luckily for us  
24 and luckily for you, Leslie Eisenberg is your  
25 jigsaw puzzle covered box.

1                   In other words, Dr. Eisenberg knows  
2                   where everyone of these bones goes.  
3                   Dr. Eisenberg will identify all of these bone  
4                   fragments. She'll identify, from a female  
5                   skeleton and from examples that are used, all of  
6                   the different parts of Teresa that were found.  
7                   Okay. And it will help you as far as  
8                   identification processes go, as to what parts of  
9                   Teresa's bones and what parts of the body were  
10                  actually recovered in this case.

11                 Now, not all evidence is of equal  
12                 weight. And two really important pieces of bone  
13                 were found. And those were two pieces of what  
14                 are called the cranium, the skull, that were  
15                 burned very, very badly but were identified as  
16                 such by Dr. Eisenberg.

17                 The parts of the skull, this picture  
18                 that you are looking at is actually a part of the  
19                 skull now. This brilliant woman is going to tell  
20                 you that this isn't just part of the skull, but  
21                 this is a little piece of the skull that's just  
22                 on top of or over somebody's left ear.

23                 How do you tell that kind of thing  
24                 looking at a bone like that, but that's what an  
25                 anthropologist apparently -- apparently does.

1 And that's why she's an expert, and we're not, in  
2 this area. But, importantly, the damage, the  
3 defect that's caused, the evidence is going to  
4 show that you are looking at the inside, from the  
5 inside out, the inside of Teresa's skull out;  
6 that the circular or half circle -- because this  
7 isn't the full piece, this is half of the  
8 important piece here -- is extremely important.

9 The defect, the damage here, the  
10 testimony will be, is caused by a high velocity  
11 projectile. We take this same bone fragment and  
12 you are going to hear evidence about other  
13 experts and it allows some other analysis of this  
14 particular piece of bone, this particular piece  
15 of cranium.

16 You are going to hear from a gentleman  
17 by the name of Ken Olsen from the Crime Lab; he  
18 is an expert in trace evidence, the CSI kind of  
19 stuff, but the trace from an elemental  
20 standpoint. When you x-ray something, the  
21 evidence is going to show bone and other kinds of  
22 vascular or veins and things show up after you  
23 x-ray even a burned piece of bone.

24 But what also shows up are things that  
25 don't burn up. All right. When Mr. Olsen

1           testifies, he's going to point to these little  
2           bright dots. See those okay from there? These  
3           little bright dots that are right on the lip of  
4           the cranial defect.

5                   Those little bright dots he's going to  
6           say he examined. He recovered those and he did  
7           his analysis on them, elemental analysis, and  
8           found that they are lead. These little dots are  
9           lead, what's called lead spray. You are going to  
10          hear testimony that there's only one thing, only  
11          one item that can travel fast enough, as a  
12          projectile, to cause this kind of a defect and  
13          also leave lead. And as you might predict,  
14          that's a bullet. All right. Lead spray is left  
15          by bullets.

16                   Dr. Eisenberg, then, with the assistance  
17          of a gentleman by the name of Jeffrey Jentzen, is  
18          the Milwaukee County Medical Examiner.

19          Dr. Jentzen, has -- and you will hear he has a  
20          great deal of experience nationally, a national  
21          expert in things like gunshot wounds.

22                   Dr. Jentzen and Dr. Eisenberg will  
23          render two expert opinions: First of all, that  
24          the left parietal region, the region just above  
25          the left ear, the thing that you just saw, the

1 combination of the projectile and the lead spray,  
2 leads these two experts -- and especially the  
3 pathologist -- especially Dr. Jentzen, who will  
4 tell you that that's an entrance wound, just  
5 above the left ear of Teresa Halbach.

6 They will also find a second and we will  
7 show you a second entrance wound, similar kind of  
8 defect that's found in a recovered bone that is  
9 on what's called the occipital region of the  
10 skull. That's to the back and just to the left  
11 side of the back of the skull and that was a  
12 second entrance wound.

13 Finally, their opinion, when they put  
14 together -- when you ask of the State, what was  
15 the cause of death, what was the mechanism of  
16 death, at the conclusion of this case I will be  
17 able to tell you, this was a homicide and it  
18 included at least two gunshot wounds to the head  
19 of 25 year old Teresa Halbach.

20 I'm almost done so hang on. Remember  
21 this burn barrel, remember found outside of  
22 Mr. Avery's trailer, well, this burn barrel, as I  
23 told you, was examined. And although Mr. Avery,  
24 the evidence will show you, attempted to burn up  
25 all of the stuff that was in the burn barrel, it

1           didn't burn. It didn't burn up.

2                   And the things that didn't burn up were  
3           electronic components. All of these electronic  
4           components were found in Mr. Avery's burn barrel.  
5           This is other evidence. This is more evidence,  
6           not just the science, not just the DNA, not just  
7           the blood, but at the conclusion of the case will  
8           be other evidence that will be able to assist you  
9           in pointing to who killed Teresa Halbach.

10                   Of those electronic components, included  
11           Teresa's cell phone. You will hear evidence that  
12           Teresa had a Motorola V3 RAZR cell phone. And  
13           when we look at and when the experts show you  
14           those electronic components that are found within  
15           the burn barrel, you will recognize or some of  
16           you might, the Motorola sign.

17                   But for those of you that don't, we're  
18           going to have a gentleman by the name of  
19           Mr. Thomas from the FBI come here from Virginia  
20           and he's going to show you all those components  
21           and he's going to show you what they looked like  
22           when they were recovered from Mr. Avery's burn  
23           barrel and what they used to look like on a  
24           Motorola V3 RAZR cell phone. All right. So you  
25           are going to be able to match up the components

1           itself and what it used to look like before Mr.  
2           Avery's attempts to destroy that evidence as  
3           well.

4                    You are going to hear about a digital  
5           camera that Teresa Halbach had; digital camera  
6           that she used to take pictures was a Canon A310,  
7           PowerShot A310. You are going to hear all kinds  
8           of interesting evidence about how a digital  
9           camera -- and some of you may know this and  
10          certainly our media friends know this. But when  
11          you take a picture with a digital camera, that  
12          photo, that image that you take with a digital  
13          camera leaves a signature. It leaves an  
14          electronic imprint on the image itself.

15                   And so, if you put that picture on a  
16          laptop computer or your home computer and you  
17          take your little mouse and put what's called the  
18          cursor, the little arrow thing, over the picture  
19          itself, it gives you an incredible amount of  
20          information. Gives you the date that that  
21          picture was taken. It tells you things about the  
22          picture itself, including what kind of camera was  
23          used.

24                   And you are going to learn and you are  
25          going to see at least six different pictures that



1           were taken at Steven Avery's property by Teresa  
2           Halbach. And all six of those include that  
3           little imprint, include that signature, will tell  
4           you conclusively that Teresa uses the Canon  
5           PowerShot A310. All right.

6                     We'll have these even more blown up for  
7           you, but that says PowerShot A310. There isn't  
8           going to be any question at all about whose  
9           camera it was that Mr. Avery burned in his burn  
10          barrel on the 31st of October.

11                    You are going to hear about those other  
12          electronic components, by the way. I don't know  
13          if you use a palm pilot or a PDA, a personal data  
14          assistant. Teresa had one of those. That was  
15          also burned up and found in that burn barrel with  
16          some other information.

17                    But when on the topic of what other  
18          evidence, what additional evidence, we're not  
19          done there folks. All right. We have other  
20          evidence that we have developed in the last 15  
21          months. You are going to learn that in  
22          Mr. Avery's garage, after shooting the bullets  
23          into 25 year old Teresa Halbach, they ejected  
24          what are called shell casings.

25                    Those are the little brass casings that

1           come out of a gun after you shoot the gun. Well,  
2           it's possible for experts, for toolmark experts  
3           from the Crime Lab to match up those shell  
4           casings with a specific gun. And they will, in  
5           fact, match that .22 caliber rifle that's hanging  
6           over Mr. Avery's bed.

7                       Now, March 1st and 2nd, 2 bullets were  
8           found, also, in Mr. Avery's garage. Through a  
9           more detailed search, you will find out why that  
10          happened. Through a more detailed search of the  
11          garage, two bullet fragments were found in  
12          Avery's garage. One of those bullet fragments,  
13          after going through Teresa Halbach, included  
14          Teresa's DNA.

15                     And so as a matter, through Mr. Gahn and  
16          through his experts, you will learn that Teresa  
17          helped you too, that she left behind some  
18          evidence for you to consider in this case.  
19          Teresa left behind her DNA for you to consider on  
20          one of the bullets that's found in the defendant,  
21          Mr. Avery's, garage.

22                     You will hear about things like phone  
23          calls. You'll hear about how phone calls can't  
24          be changed in the records and we can provide a  
25          timeline as to when certain things happened; when

1 Mr. Avery called for Teresa; when he called her  
2 two times before she ever got there; and when he  
3 places a -- what we're going to be called an  
4 alibi call, two hours after she's already at the  
5 property. You are going to hear about all those  
6 kinds of phone calls.

7 And as I mentioned, at least briefly,  
8 before other analysis of bone and tissue, other  
9 things to point to, if in fact the State even  
10 question whose bones and whose tissue it is  
11 behind Mr. Avery's property.

12 Lastly, I just want to remind you of the  
13 kinds of exhibits that you are going to hear in  
14 this case. You are going to see items that were  
15 seized, stuff that was seized from the scene,  
16 from Mr. Avery's property. You are going to get  
17 photographs from out at the scene, but you are  
18 also going to see photographs after the evidence  
19 was already obtained so that you have a more  
20 pristine or a better view of some of this  
21 evidence.

22 You are going to look at documents and  
23 records. You are going to hear from experts.  
24 And they will provide some written expert reports  
25 and also summary and demonstrative exhibits.

1                   Just a little bit on summary exhibits.  
2                   When there's lots of evidence like documents;  
3                   lots of things in documents, phone records, you  
4                   know, things like this; when it's hard for you to  
5                   digest, we'll try to create a one or a two page  
6                   summary of all that information to help the jury  
7                   and find out exactly what all of it means.

8                   And, finally, audio and videotaped kinds  
9                   of evidence, you would expect to find those kinds  
10                  of things.

11                  Remember I told you before, just talking  
12                  about different kinds of photos, about those  
13                  pictures that Teresa took, those six different  
14                  pictures; this is one of them. It was taken on  
15                  June 20th, by Teresa Halbach.

16                  I use this as the example because --  
17                  because I wanted to. But it shows very clearly  
18                  Mr. Avery's trailer, his garage. It's clear  
19                  through *Auto Trader Magazine*, when Mr. Avery, in  
20                  June of this year tried to sell this particular  
21                  trailer, Teresa Halbach took this picture, again,  
22                  with a Canon PowerShot A310. You will hear all  
23                  those kind of things.

24                  But the reason, at least for this part  
25                  of the presentation, I'm showing you this, is it

1 tells you a difference between a scene photo and  
2 things that I mentioned at least briefly before;  
3 computer generated scene models. Again, this  
4 isn't a picture. This is a -- provided by  
5 Mr. Austin, but you will note that it's something  
6 that you couldn't see with your eye.

7 Again, usually there's elevations that  
8 are involved. These kinds of models are, by the  
9 way, within an inch, you will hear, accurate.  
10 Every measurement is within an inch. So this  
11 isn't some blackboard that was taken down and you  
12 just do the best you can.

13 And these are 4100 measurements that  
14 make everything geometrically perfect,  
15 geometrically accurate to within an inch. But  
16 these kinds of models should assist you. Since  
17 it's the middle of February, we're not going to  
18 be traipsing off to the Avery property.

19 These kinds of things may help you in  
20 understanding better and getting a better tour of  
21 the Avery property. But just this model, as an  
22 example, shows you how close Mr. Avery's burn  
23 barrel is to his front door; how close it is to  
24 the vehicle that Ms Halbach took pictures of.  
25 And even things like after taking the pictures,

1 the path that Teresa Halbach took as she walked  
2 towards Mr. Avery's property.

3 For those of you big picture people, not  
4 detail oriented people, you all were asked that  
5 question, we'll have aerial photographs for you.  
6 Again, when we look at all of the surrounding  
7 gravel pits on at least three sides of the Avery  
8 property and how that may fit into some of those  
9 kind of things.

10 We have interior photos as well. Photos  
11 of the inside of Mr. Avery's garage. Now, you  
12 will note a couple things about this photo.  
13 First of all, you will note how cluttered, to say  
14 the least, that it is. And this might help you  
15 understand how difficult it was for officers, not  
16 knowing what they are looking for, in November,  
17 to kind of go through this garage, not knowing  
18 that the shooting -- not knowing that the  
19 shooting happened in this garage. The officers  
20 didn't really know what they were looking for.

21 But in March, when this picture was  
22 taken, and they know what they are looking for  
23 and they know where to look in the garage, these  
24 kind of pictures should be able to help you. But  
25 Mr. Austin also will help you in giving you a

1 geometric perspective, ripping the roof off, if  
2 you will, of the garage and show you models of  
3 the insides of the garage.

4 By the way, just so there isn't any  
5 question why I'm showing you this exhibit, one of  
6 the bullets, number 9, which was found in the  
7 crack of a -- the cement, that was not cleaned up  
8 in this case. And tent number 23A, underneath  
9 what was a air compressor, the evidence is going  
10 to show, is the bullet that Teresa left her DNA  
11 for you. Underneath that air compressor is where  
12 they recovered that second bullet.

13 Other interior photos, you are going to  
14 see photos of the interior of Mr. Avery's  
15 bedroom, the gun rack that hangs over Mr. Avery's  
16 bed with two firearms, one was a .50 caliber  
17 muzzleloader and on top of that was a .22 caliber  
18 automatic -- semi-automatic rifle.

19 But Mr. Austin, again, provides you  
20 with, ripping off the roof, if you will, interior  
21 scene models, where you are going to be able to  
22 look at the living room of Mr. Avery and his  
23 spare bedroom and his bathroom and Mr. Avery's  
24 master bedroom, be able to kind of walk around  
25 within that space. So it will help you



1 understand where some of these evidence -- or  
2 some of this evidence was found.

3 Finally, the kinds of witnesses that you  
4 are going to hear from, include citizens and law  
5 enforcement officers and records kinds of people;  
6 although, most of those will be agreed to between  
7 Mr. Strang and us, as well as expert witnesses.

8 You will hear from various kinds of  
9 citizens like Bobby Dassey, who is one of the  
10 sons of Barb Janda, who you will hear testimony  
11 about, that at about 2:45 on the 31st of October,  
12 Bobby saw a young girl drive up to the Avery  
13 property.

14 Bobby Dassey saw this young girl, later  
15 identified as Teresa Halbach, get out of her  
16 teal, or blue, or green colored SUV and actually  
17 take pictures of the van that her mom had for  
18 sale. Bobby Dassey is going to tell you, that  
19 after looking out the window and after seeing  
20 Teresa Halbach take these photographs of this  
21 vehicle and finish her job, that Teresa walked  
22 towards Steven Avery's trailer.

23 You will hear evidence that she was  
24 walking towards the main entrance of Steven  
25 Avery's trailer and that Bobby thereafter took a

1 shower and left to go deer hunting, bow hunting,  
2 about 15 minutes later. You are going to hear  
3 from Bobby that when he left 15 minutes later,  
4 Teresa's SUV was there, but Teresa was nowhere to  
5 be found.

6 You are going to hear that Bobby Dassey  
7 was the last person, the last citizen that will  
8 have seen Teresa Halbach alive. You are going to  
9 hear from other citizens like that, other people  
10 that will help place this case into context for  
11 us.

12 Juries are triers of fact. You don't  
13 decide what the law is, the judge does that. But  
14 you decide what the facts of the case are. And  
15 the facts in this case aren't just going to point  
16 to who did it; it's not just a who done it case.  
17 It's a what happened and where it happened and  
18 when it happened.

19 But we're also going to provide you  
20 evidence, not just that Steven Avery did it, but  
21 to the exclusion of other people as well. In  
22 other words, positive evidence about who done  
23 know it, but also negative evidence of why that  
24 necessarily excludes others. And so you get to  
25 find those facts and at the end of this case, you

1 will search for the truth. You are not to search  
2 for doubt, you are to search for the truth.

3 I told you when you started this case  
4 and when this opening statement started, that  
5 this may, in fact, be the most important decision  
6 that you will ever -- going to make.

7 That leaves us, then, with the end. I'm  
8 going to remind you through this case, I'm not  
9 going to apologize about it, but this is Teresa  
10 Halbach. I'm not going to apologize about the  
11 fact that this is not a DNA profile number. This  
12 isn't a box of recovered bones, but as I have  
13 mentioned before, remembering the humanity of  
14 Teresa Halbach. Remembering who she is, what she  
15 meant to these people, is an important part of  
16 this process.

17 Ultimately, this process includes  
18 assigning accountability. It will require you to  
19 assign responsibility for the murder and  
20 mutilation of an innocent 25 year old young lady.  
21 I'm confident, members of the jury, that after  
22 the conclusion of this, what could in fact be a  
23 six week trial, that you are going to agree with  
24 me. You are going to agree with the State that  
25 we have met our burden, that is, beyond a

1 reasonable doubt. I will ask at the conclusion  
2 of this case, that you return verdicts of guilty.  
3 Thank you. Thank you, Judge.

4 THE COURT: Thank you, Mr. Kratz. Members  
5 of the jury, it's quarter to 12. It's a little  
6 earlier than we normally take our lunch break, but I  
7 don't believe there is time enough to get started  
8 with anything else before lunch.

9 During the course of the trial the Court  
10 will attempt to give you a break every hour and a  
11 half or so, because I realize that your attention  
12 is required and sitting for much longer than that  
13 can impair your attention.

14 I do want to remind you at this time, as  
15 I will periodically throughout the trial, that  
16 you are not to begin your deliberations and  
17 discussion of the case until all of the evidence  
18 is presented and I instruct you on law at the  
19 conclusion of the case.

20 Do not discuss the case among  
21 yourselves, including the opening statement given  
22 today, or with anyone one else, until you begin  
23 your final deliberations in the jury room. We'll  
24 take our lunch break now and resume at 1:00.

25 (Jury not present.)

1 THE COURT: You may be seated. Counsel, in  
2 terms of the schedule for this afternoon, is the  
3 State going to have some evidence to present after  
4 the opening statement?

5 ATTORNEY KRATZ: We will, Judge, we'll have  
6 as many witnesses as the Court wants to proceed with  
7 this afternoon.

8 THE COURT: All right. We'll see you back  
9 at 1:00.

10 ATTORNEY STRANG: I have just one quick --

11 THE COURT: Go ahead.

12 ATTORNEY STRANG: -- matter if I might.

13 I decided against interrupting  
14 Mr. Kratz's opening statement because I thought  
15 this could wait, honestly, and I don't like to  
16 interrupt someone's opening. But probably in the  
17 first 20 minutes of his opening, Mr. Kratz  
18 explained to the jurors that the presumption of  
19 innocence persists only until that moment when  
20 the evidence overcomes it and proves guilt,  
21 beyond a reasonable doubt.

22 I understand -- I understand the  
23 argument. I understand what was meant, no ill  
24 intent was meant, but that's enough of a  
25 variation from the actual instruction that the

1 presumption of innocence attends the defendant  
2 until after closing arguments and deliberations  
3 begin, that I simply would ask the Court to  
4 repeat part of that presumption of innocence  
5 instruction this afternoon, before I start.

6 We don't have to make a big deal out of  
7 it; I just thought an abbreviated reminder might  
8 help. I also noted in the State's Power Point  
9 slide that explained the element of false  
10 imprisonment that the language, during her  
11 lifetime, was omitted.

12 That's, I think, the kind of thing that  
13 the Court already has covered and can cover  
14 again, but it might be a good idea, and this  
15 covers me too, for the Court simply to remind the  
16 jury that all legal instructions come from the  
17 Court in the end.

18 THE COURT: All right. I did -- I do  
19 recall the statement regarding the presumption of  
20 innocence that you referred to. And I do agree that  
21 the precise extemporaneous statement for Mr. Kratz  
22 is not technically correct. I'm going to grant your  
23 request and repeat the presumption of innocence  
24 instruction before you give your opening.

25 The other item about during the victim's

1           lifetime, I think I covered in the initial  
2           instructions, again, and I'm confident that six  
3           weeks from now the jury will have forgotten any  
4           subtle distinction that may have taken place in  
5           the opening. But I will repeat the presumption  
6           of innocence instruction without giving any  
7           specific reason why --

8           ATTORNEY STRANG: No.

9           THE COURT: -- because I doubt that the  
10          jury caught the significance of it, but it was  
11          technically incorrect.

12          ATTORNEY STRANG: Right. And it was  
13          unintended and there doesn't have to be a big deal  
14          made about this.

15          THE COURT: All right. Anything else  
16          before we break?

17          ATTORNEY KRATZ: No, that's fine, Judge,  
18          thank you.

19                       (Noon recess taken.)

20          THE COURT: Members of the jury, a question  
21          came up during break concerning the definition of  
22          presumption of innocence, so I'm going to read that  
23          excerpt to you again at this time, from the opening  
24          instructions I gave you earlier. Then we'll hear  
25          the opening statement from the defense.



1 Defendants are not required to prove  
2 their innocence. The law presumes every person  
3 charged with the commission of an offense to be  
4 innocent. This presumption requires a finding of  
5 not guilty unless in your deliberations you find  
6 it is overcome by evidence which satisfies you,  
7 beyond a reasonable doubt, that the defendant is  
8 guilty. Mr. Strang, at this time you may begin.

9 ATTORNEY STRANG: Thank you, your Honor.  
10 Good afternoon. This summer it will be 22 years, 22  
11 years since a woman running on the beach in  
12 Manitowoc was raped and beaten nearly to death. The  
13 Manitowoc County Sheriff's Department investigated  
14 those awful crimes and they charged Steven Avery  
15 with rape and attempted murder on that Manitowoc  
16 beach, 22 summers ago.

17 He said consistently that he was  
18 innocent, that he had not done it. No one  
19 believed him, no one but his own family believed  
20 him.

21 And as that case was making its way  
22 through the Manitowoc County Circuit Court, just  
23 one county over, Teresa Marie Halbach was five  
24 and was starting kindergarten. Somewhere else,  
25 somewhere we don't know, a man named Gregory

1 Allen, presumably, was laughing and planning his  
2 next violent rape.

3 Eleven years later, in 1996, Steven  
4 Avery was trying, still, to make people  
5 understand that he was innocent. DNA testing was  
6 in its infancy. It was beginning to move into  
7 courtrooms, out of scientific laboratories. But  
8 we have come a long way, just a few years since  
9 1996, and it was not as advanced as it is today.

10 But in 1996, Steven Avery took a chance  
11 and had blood drawn, a little vial of blood. It  
12 was sent off, through the help of his lawyers,  
13 for early DNA testing. It couldn't clear him  
14 entirely. It helped, but it did not conclusively  
15 prove Steven Avery's innocence of the attempted  
16 murder and rape on the Manitowoc beach.

17 And when the tests failed to prove him  
18 entirely innocent, that blood was sent back, in a  
19 box sealed with evidence tape, to the Manitowoc  
20 County Clerk of Court. And there, in 1996, that  
21 blood vial, sealed in the box with evidence tape,  
22 took up residence in the now 11 year old file of  
23 the 1985 case; in a box, in the open, in the  
24 Manitowoc County Clerk of Court's Office. And  
25 there it sat.

1                   And in 1996, here, just a few miles  
2                   north of here, Teresa Marie Halbach was learning  
3                   to drive at age 16, I assume. And the irony --  
4                   Could you hear me before? Can you hear  
5                   me now?

6                   THE COURT: We can hear you better now.

7                   ATTORNEY STRANG: All right. Is it the  
8                   Verizon guy who says that?

9                   Teresa was learning to drive, I assume,  
10                  at age 16. And the irony -- the irony is that  
11                  the blood vial in the Clerk's Office probably is  
12                  what ends up in her car, eventually.

13                 And time moves forward, though, to 2002.  
14                 Science also has moved forward. DNA testing has  
15                 improved, and a new effort is made to exonerate  
16                 Steven Avery.

17                 Now, the blood in the vial, in the box,  
18                 under the evidence tape, in the Clerk's Office,  
19                 is not, you will learn, what is used for the 2002  
20                 and 2003 DNA testing. But, some materials from  
21                 that box, that file, the overall file from the  
22                 1985 case, some are sent to the Wisconsin State  
23                 Crime Laboratory in Madison, to Sherry Culhane,  
24                 to whom Mr. Kratz introduced you.

25                 And the person from the Manitowoc County

1 Sheriff's Department involved, low these many  
2 years later, the department was, but a person  
3 from the Manitowoc County Sheriff's Department  
4 who documented the things that were sent from  
5 that old court file to the Crime Laboratory and,  
6 therefore, presumably looked at the box and  
7 assisted in deciding what to send. That person  
8 was, by that time, a lieutenant -- or a  
9 detective, now a lieutenant, named James Lenk.

10 Now, Detective Lenk was with the  
11 Manitowoc County Sheriff's Department, had his  
12 office in the Sheriff's Department that adjoins,  
13 or is connected by a small courtyard, to the  
14 Manitowoc County Circuit Court and the Clerk's  
15 Office, by a small courtyard to the south of the  
16 courthouse. He was, as I say, a detective with  
17 the Sheriff's Department. Today he is the  
18 lieutenant of the detectives and leads the  
19 Detective Unit.

20 He documented, in 2002, what was sent to  
21 the State Crime Laboratory from that file. 2002  
22 is the year that Teresa Halbach graduated from  
23 the University of Wisconsin at Green Bay and came  
24 home a short distance back, here to Calumet  
25 County, to start off a promising career.

1                   In 2003, nearly a year after the  
2                   necessary DNA samples were sent, the Wisconsin  
3                   State Crime Laboratory was able to establish that  
4                   Steven Avery did not rape and beat the woman on  
5                   the Manitowoc beach, as he had been saying all  
6                   along. And because of the advance of science,  
7                   the Crime Lab was better -- was able to do better  
8                   than that. It was able to establish that Gregory  
9                   Allen did.

10                  Now, unfortunately, in the time that  
11                  passed, Mr. Allen had raped violently, again,  
12                  because he had his liberty while that man did his  
13                  time. But in the fall of 2003, as the weather  
14                  was cooling, the State of Wisconsin at long last  
15                  joined Steven Avery in a motion to set aside his  
16                  conviction, and an innocent man also went home.

17                  Home for Steven Avery, home is the  
18                  salvage yard of which you have seen, now, many  
19                  glorious pictures, from up high, from down low,  
20                  from angles all over. The pictures are a good  
21                  deal more glorious looking than the salvage yard  
22                  itself, but this was home. It's the only home  
23                  that would take him back after this time.

24                  Allen Avery, Steven's father, back there  
25                  in the working shirt, just as you might expect;

1 Allen Avery started that business nearly 40 years  
2 ago on the 40 acres that he scrimped to buy. He  
3 raised sons and a daughter. And they didn't  
4 wander far from the business.

5 Chuck and Earl joined it, Barb works  
6 elsewhere, works a factory job, but lives on the  
7 property. And this is the sort of business where  
8 the family, as you saw, shares the perimeter of  
9 this property with the 4,000 rusting, decaying  
10 cars that are the refuse, the wreckage of other  
11 people's lives.

12 This is not a glamorous business, but it  
13 is a necessary business. It is a good business.  
14 And, yes, as you will learn, you have got to get  
15 your hands dirty if you're going to be in the  
16 salvage business. Not just dirty, you get your  
17 hands bloody, because you are working with  
18 rusted, jagged metal disassembling cars. And the  
19 dirt that grinds into your palms and that you  
20 find under your fingernails doesn't wash off at  
21 night.

22 But this was his family's business and  
23 this was home. And he rejoined his brother's,  
24 Chuck and Earl; and his father, Allen; his  
25 mother, Delores, on the family's property and at

1 the business. He became, again, one in the Avery  
2 clan, one man in the Avery clan. And tried to  
3 resume some normalcy of life, sharing the  
4 perimeter of that salvage yard, not in a pretty  
5 house in town, on a nice stone foundation, but in  
6 a trailer home, down from his sister's trailer  
7 home. Both of them down from the doublewide that  
8 mom and dad have, and Chuck's trailer toward the  
9 back, on the path toward the crusher.

10 And it is, although not glamorous, a  
11 worthwhile business and it's work with its own  
12 dignity. What would we do, if we didn't have the  
13 salvage yards in which to find spare parts. I  
14 guess we would be reliant entirely on the big  
15 corporations that make the cars, to continue to  
16 make spare parts for them and sell them at such  
17 prices they might see fit.

18 So it would be pretty tough without the  
19 Allen Averys and the Steven Averys of the world.  
20 It would be pretty tough for the guy who is  
21 restoring the 1968 Pontiac GTO hard top, in his  
22 garage, to do that economically. It would be  
23 pretty tough for the guy working on a 1965  
24 Mustang convertible, in his spare time, to do  
25 that.



1                   Maybe more importantly, it would be  
2                   pretty tough for the woman who's got young kids  
3                   to feed, and a job to hold down, and medical  
4                   bills, and she just has to get another  
5                   50,000 miles out of that 1988 Oldsmobile. And  
6                   for these people, maybe for you, for many of us,  
7                   it's a good thing that that young woman's father,  
8                   or brother, or maybe she, can go to the salvage  
9                   yard and keep the 1988 Oldsmobile running a  
10                  little while longer.

11                 Now, in 2003, when Steven went home,  
12                 Teresa Halbach also was home. Her photography  
13                 business was flourishing and things were going  
14                 reasonably well. In 2004, Steven Avery filed a  
15                 lawsuit seeking some recompense for the hole in  
16                 his life, the time he had spent as an innocent  
17                 man, for the crimes that Gregory Allen committed.

18                 This was a serious lawsuit. It was in  
19                 federal court, down in Milwaukee, and there was  
20                 no question but that a Manitowoc County Sheriff's  
21                 Department and, in the end, the court system, had  
22                 gotten the wrong guy.

23                 And as that lawsuit crept forward, as  
24                 lawsuits do, we came to October 2005. In October  
25                 2005, about the middle part of the month, James

1       Lenk and another ranking officer of the Manitowoc  
2       County Sheriff's Department, Sergeant Andrew  
3       Colborn, Mr. Lenk and Mr. Colborn both were  
4       pulled into the lawsuit, not as defendants or  
5       parties to the lawsuit, but as witnesses,  
6       witnesses who had their depositions taken in the  
7       middle of October, 2005.

8               Now, a deposition, typically in a civil  
9       lawsuit, is an event where you get a subpoena as  
10      a witness; you come normally to a lawyer's  
11      office, the conference room, the library, the  
12      lawyer's office; lawyers from both or all sides  
13      are there.

14             A court reporter is there; these days  
15      often a videographer as well. And the court  
16      reporter swears the witness under oath, the  
17      lawyers ask questions of the witness under oath  
18      and they are recorded, much as Mrs. Tesheneck is  
19      recording what we're saying here. There's no  
20      judge; it happens, as I say, typically in a  
21      lawyer's office.

22             And these two men, Lenk and Colborn,  
23      were witnesses. They were witnesses about their  
24      own conduct. Neither had been with the Manitowoc  
25      County Sheriff's Department in 1985, but an event

1 in 1995 or 1996 came up in that lawsuit. And as  
2 to that event, both of them were witnesses being  
3 questioned about their own activity and conduct  
4 with respect to Mr. Avery's imprisonment.

5 By the end of that month, unfortunately,  
6 those depositions would begin to matter. And  
7 indeed, from the time it was filed in 2004, you  
8 will learn, the lawsuit itself mattered. This  
9 sort of lawsuit, or the public cry of the  
10 innocent man wrongly convicted and imprisoned has  
11 to be, as you will see here I think, it has to  
12 be, as you get into the heads of law enforcement  
13 and begin to understand the process of law  
14 enforcement, this kind of thing has to be a  
15 nightmare for every good law enforcement officer.

16 These folks do not want to put innocent  
17 people in prison. They want to put guilty people  
18 in prison. And when they get it wrong, when the  
19 whole system gets it wrong, there understandably  
20 are feelings of shame, of embarrassment, anger,  
21 humiliation, conflicting feelings about this.

22 This is a good cops worst nightmare,  
23 made all the more worse by the fact that Gregory  
24 Allen, free, thanks to Steven Avery being  
25 convicted instead, Gregory Allen went on to rape

1           and beat again.

2                   This lawsuit kindled real difficult  
3           emotions. And the focal point of those emotions,  
4           naturally, was the Manitowoc County Sheriff's  
5           Department which had investigated the rape many  
6           years ago on the Manitowoc beach.

7                   And so when October 31, 2005, Halloween,  
8           rolls along, Lieutenant Lenk and Sergeant Colborn  
9           not only have the lawsuit to contemplate, but  
10          now, within the last three weeks, have been made  
11          witnesses in it and had their depositions taken.

12                   October 31, 2005, began at the Avery  
13          Auto Salvage Yard, much as any workday would.  
14          This was a Monday, the yard was open. Not long  
15          after 8:00 in the morning, about 8:12 in the  
16          morning, Steven Avery called Auto Trader down  
17          in -- actually I think in Hales Corners, Highway  
18          100 down on the southwest side of Milwaukee,  
19          called Auto Trader, as he had done a number of  
20          times before, and said, we need a photographer,  
21          we have a car for sale.

22                   Now, the car belonged to Barb Janda, the  
23          van, the mini van you saw computer images of and  
24          actual photographs of. It was there. It was  
25          hers. It was for sale. I don't expect there

1 will be any dispute about that. And it was  
2 Barb's to sell. The calls about it were Barb's  
3 to take, the price was Barb's to dicker or  
4 negotiate with people interested in making an  
5 offer, on the used van.

6 Steve left B. Janda as the name because  
7 that was the name of the seller. But Barb works  
8 during the day at a factory in town. She does  
9 not work at the salvage yard as Steven did. He  
10 leaves her telephone number because that's where  
11 the phone calls have to go if there's an  
12 interested buyer.

13 And this, you will find out, is not at  
14 all unusual or sinister. It doesn't involve  
15 luring anyone anywhere. There was a car for  
16 sale. There were photographs to be taken. And,  
17 indeed, on that day alone, for Teresa Halbach,  
18 with the three appointments we know about; this  
19 was not the only appointment where the seller of  
20 the car was not the person whose name was given  
21 to Auto Trader.

22 The Schmitz car was called in by and  
23 listed as an appointment for a Craig Sippel  
24 (phonetic). And that little bit of confusion was  
25 quickly cleared up by the police. Wasn't really

1 Sippel's car; it was Schmitz's car, no big deal.  
2 But she thought she was going to see a Craig  
3 Sippel, not a Steven Schmitz.

4 She thought that she was going to see a  
5 B. Janda, I suppose, not a Steven Avery. But  
6 here's what she knew, she knew the address.  
7 Steven gave the address. This is an address, as  
8 Mr. Kratz explained to you and I agree, to which  
9 Teresa Halbach had been a number of times,  
10 probably about a half dozen, five, six, maybe  
11 more times, to take photographs of cars or the  
12 trailer for sale, for example, the photograph you  
13 saw.

14 She knows the address. She knows where  
15 she's going. As you will see, this is not a  
16 surprise, or a secret to her or to anyone else.  
17 And at 11:45 that morning, she called Barb  
18 Janda's number and evidently left a voice mail  
19 message saying that she would be able to get  
20 there that day, sometime after 2:00.

21 Now, this Manitowoc County area was  
22 Teresa's territory so to speak, for Auto Trader.  
23 This was her freelance work as I understand, not  
24 her main source of income. Her photography  
25 studio work I think probably was her passion and

1           this was a side job for a young photographer to  
2           generate some more money.

3                     She has a territory for Auto Trader.  
4           Steven Avery wouldn't necessarily know what her  
5           territory is or whether she's the only  
6           photographer working it. And sometime close to  
7           2:30, he's obviously getting fidgety. He makes  
8           two phone calls to her cell phone from his cell  
9           phone and he uses the \*67 feature, you will find  
10          out, which as I understand it on the -- on  
11          Teresa's telephone, then, no telephone number  
12          would come up; come up is unavailable, or  
13          something like that, or blocked.

14                    But he is on his own cell phone and he  
15          may not want, not being entirely sure whose  
16          number he is calling, he may not want to be  
17          giving out his cell phone number. At least the  
18          second of those calls goes unanswered.

19                    And the time frame gets fuzzy here.  
20          Mr. Kratz said that it was late afternoon that  
21          Teresa arrived and I'm inclined to agree with  
22          that; although it is difficult to nail down. But  
23          I think the best evidence you will hear is that  
24          although Teresa Halbach is in the neighborhood of  
25          the Zipperers, who are really just -- I don't



1 know how far, but not too far down Highway 147  
2 and then south toward Manitowoc a little bit. So  
3 they are in the general vicinity.

4 And I think at about 2:15 she's near the  
5 Zipperers, trying to figure out exactly where  
6 she's going to get to the Zipperers to take that  
7 photograph of their car. But I think the best --  
8 the best estimate we'll get out of the evidence  
9 of when she actually arrives at Avery Road, which  
10 is that gravel road that leads down towards,  
11 first, Barb Janda's trailer and then Steven  
12 Avery's trailer, which you saw on the north edge  
13 of the 40 acre parcel; the best estimate of when  
14 she swings her Toyota down that gravel road is  
15 probably shortly before 3:30, probably not 2:45,  
16 as one of Barb Janda's sons, Bobby Dassey,  
17 recalls it.

18 Why do I say the best estimate, because  
19 there is a school bus driver. Two of Barb  
20 Janda's boys, Brendan and Blaine, are still in  
21 Mishicot High School and it's Monday, as I said.  
22 And they ride the school bus. And school  
23 schedules being what they are, of course, unless  
24 there is really terrible weather or something,  
25 school lets out at the exact same time every day,

1 the bell rings and kids run out the door.

2 The bus is going to be leaving about the  
3 same time and the bus driver will be driving the  
4 same route every day. So this bus driver, who's  
5 no relation to the Avery family, or the Halbachs,  
6 or anybody else for that matter, just happens to  
7 be the school bus driver; her name is Lisa  
8 Buchner.

9 Lisa Buchner, when interviewed by the  
10 police says, you know, about 3:30 when I dropped  
11 the Dassey boys off at the head of Avery Road, I  
12 looked down the road and I saw a young woman  
13 taking a photograph, or photographs, of a van.  
14 Now, Buchner actually isn't sure when she's  
15 questioned about this whether it's Monday,  
16 Tuesday, or Wednesday of that week.

17 But Monday is the day that a young woman  
18 would have been taking a photograph of the van,  
19 down near the end of Avery Road. So she's got a  
20 pretty good reason to have a good bead on the  
21 time. She's going to know her route, this is  
22 something she's doing five days a week. And it's  
23 about 3:30 that she sees this young woman down  
24 the road, taking a photograph of the van.

25 Teresa Halbach does her business. And

1 the way this works is the person selling the car  
2 then gives the photographer \$40. The  
3 photographer makes out a receipt for the  
4 transaction, typically also offers the customer  
5 the current copy, current edition of the Auto  
6 Trader Magazine and leaves.

7 And that's what Teresa Halbach did.  
8 Steven Avery last sees her going back out Avery  
9 Road and about to turn left to go back out to  
10 Highway 147.

11 Now, somebody clearly sees her later.  
12 We don't know who, I don't know where, I don't  
13 know when. And I, like Mr. Kratz, don't know  
14 why.

15 I do know this and can tell you that you  
16 will hear this about the evidence. One of the  
17 things that the photographers who freelance or  
18 work for Auto Trader do, is to go take  
19 photographs on appointments that have been set  
20 for them through the Auto Trader office.

21 But there is another thing they can do,  
22 they get some money for that, obviously. Some of  
23 the \$40 goes to the photograph. But there's  
24 another thing they can do and that's called a  
25 hustle shot. The hustle shot is exactly that,

1           it's business that the photographer hustles up  
2           for herself, or for himself.

3                   And as an incentive for the  
4           photographer, to hustle a little bit and, you  
5           know, thicken the *Auto Trader Magazine* with new  
6           customers selling cars, or boats, or trailers, or  
7           whatever, as an incentive for their photographers  
8           to do that, *Auto Trader* gives the photographer a  
9           little bigger cut on a hustle shot.

10                   You are going to learn that Teresa  
11           Halbach was good at hustle shots. She drummed up  
12           a lot of these. She was likeable. She was hard  
13           working. She was good at getting hustle shots.

14                   I have no idea -- I have no idea at all  
15           and I don't think you will either, unfortunately,  
16           whether she had a hustle shot, or two, or three,  
17           that day or not. It would not have been  
18           uncommon. But if, in fact, she's near the  
19           Zipperers at 2:15 and as I think is probable from  
20           the evidence, she doesn't show up to the Averys  
21           until about 3:30, it's possible there's a hustle  
22           shot in there or I suppose stopping for lunch or  
23           something, we don't know.

24                   It's possible there are hustle shots  
25           that are not scheduled through *Auto Trader* after

1 the Avery shot. Because after all, I mean, if  
2 we're at 3:30, there's a good bit of daylight  
3 left in the working day, I suppose. But we don't  
4 know.

5 What we do know is that someone sees her  
6 later. And Steven Avery calls her later, as a  
7 matter of fact, from his cell phone. Again, he  
8 calls her cell phone at about 4:35 that  
9 afternoon. Why, because he thought, I have got  
10 another car I would like to sell. I might as  
11 well, if she's still around, or if she can swing  
12 back, I might as well have her shoot that one  
13 too.

14 But he doesn't get an answer from her,  
15 doesn't answer the phone, when he calls at 4:35.  
16 He sticks around. And at that point his  
17 girlfriend, Jodi Stachowski, is in jail serving  
18 some time for a drunk driving conviction. She's  
19 in the Manitowoc County Jail.

20 Jodi, you will learn, calls Steven  
21 regularly. Because she's in jail, she has to  
22 call collect. And you can't call collect from a  
23 jail to a cell phone. I don't know if you can  
24 call collect to any cell phone from anywhere.  
25 But in any event, you can't call a cell phone

1 from the jail, calling collect. So you have got  
2 to call a land line.

3 So that's exactly what Jodi Stachowski  
4 does, first a little bit after 5:30 in the  
5 evening she calls. And jail systems, I don't  
6 know if you know this, but jail systems,  
7 typically, and the Manitowoc County Jail clearly  
8 does this, cut off phone calls after 15 minutes.  
9 Inmates have a lot of time on their hands,  
10 sometimes people they are calling don't. So the  
11 call just ends at 15 minutes.

12 So Jodi calls about a little bit after  
13 5:30 on the land line. And then she calls again  
14 just shortly before 9:00 p.m. And Steven is  
15 home. Steven answers the phone in his little red  
16 trailer there, both times. And both of those  
17 conversations go 15 minutes, almost to the  
18 second.

19 He tells her that he's been doing a  
20 little cleaning. He tells her that Brendan, his  
21 nephew, Brendan Dassey, is over. They hassle.  
22 These are inane conversations, honestly, but they  
23 are tape recorded, because every phone call out  
24 of the jail is tape recorded, so we know they  
25 happen.

1 Does it sound like he's just killed  
2 someone, no. Does he hide the fact that his  
3 nephew, Brendan, from 50 yards away, or whatever  
4 it is, Barb's trailer, has come over, no.  
5 Doesn't have to tell Jodi that, if they were up  
6 to something no good, but he does. Brendan is  
7 around.

8 And for all the world, as I say, these  
9 conversations simply are inane, they don't ring  
10 of someone who has committed a murder or in the  
11 midst of committing a murder, or in the midst of  
12 mutilating a corpse or falsely imprisoning  
13 anyone, no screaming in the background. They are  
14 just inane telephone conversations between a  
15 squabbling boyfriend and a squabbling girlfriend.

16 And October 31 comes to a close. It's  
17 about three days later, Thursday evening about  
18 5:00, November 3, when Mrs. Halbach reports  
19 Teresa missing. Teresa lives almost next door to  
20 the elder Halbachs; I mean, the two houses, you  
21 can see the one from the other, on the dairy  
22 farm, up north of here, in Calumet County.

23 So the report goes to the Calumet County  
24 Sheriff's Department. It's a missing person  
25 report. No one has seen Teresa since Sunday,



1 actually. And the Calumet County Sheriff's  
2 office responds, interviews the family, a couple  
3 of close friends, and learns very quickly about  
4 these three appointments that Teresa had on  
5 Monday. Now, at least two of those -- at least  
6 two, maybe the third even, but at least two, are  
7 in Manitowoc County; Zipperers and Avery, or B.  
8 Janda.

9 So the Calumet County Sheriff's  
10 Department calls for help from the Manitowoc  
11 County Sheriff's Department on this missing  
12 person report; that very night, 5:00, the report  
13 is made. By the end the of the dinner hour,  
14 Calumet County is calling the Manitowoc County  
15 Sheriff's Department for a little bit of help.

16 And who do we get? We get Sergeant  
17 Andrew Colborn. And he's told, look, two places  
18 we would like to sort of check out and see if  
19 Teresa Halbach showed up on Monday, the Zipperer  
20 residence and Steven Avery. Well, that's a name  
21 that rings a bell, you better believe; less than  
22 three weeks, or about three weeks, after his  
23 deposition.

24 And it is interesting that of those two  
25 places that Sergeant Colborn is asked to check

1 out and inquire after Teresa Halbach, he only  
2 goes to one. He goes to Steven Avery's home and  
3 Steven cooperates with him. Tells him  
4 essentially what I have told you about Teresa  
5 Halbach coming to take the picture of Barb  
6 Janda's van. Doesn't clam up, doesn't seem  
7 nervous, isn't uncooperative; that very night,  
8 November 3, around 7:00, when Sergeant Colborn  
9 knocks on his door.

10 Out of the blue, the same night,  
11 Lieutenant James Lenk, now the head of the  
12 Detective Unit in Manitowoc County Sheriff's  
13 Department, calls Calumet about this missing  
14 person report. Now, at this time, on Thursday  
15 night, November 3, this is -- let's be clear,  
16 this is just a missing person report, a young  
17 woman who hasn't been seen for three days.

18 It's in another county. It's not even  
19 Manitowoc County at all. And nobody has called  
20 for Lieutenant Lenk. And nobody's called looking  
21 for him. But the chief detective of Manitowoc  
22 County takes it upon himself, that night, to call  
23 Calumet and offer to get involved in the missing  
24 person investigation where one of the  
25 appointments that was to be kept was Steven

1 Avery.

2 And the next morning, Lieutenant Lenk  
3 does one better than that, he goes out himself to  
4 Steven Avery's trailer with another officer from  
5 Manitowoc. And he knocks on the door again, just  
6 as Sergeant Colborn had done the night before,  
7 inquiring after Teresa Halbach. Again, Steven  
8 Avery is cooperative.

9 Lieutenant Lenk asks, could I take a  
10 walk through your trailer, can I look around, do  
11 you mind? No, I don't mind. Come on in.  
12 Lieutenant Lenk walks through Steven's trailer,  
13 sees nothing amiss, thanks him for his  
14 cooperation and leaves.

15 November 5, Saturday, Steven has left to  
16 go to the family cabin up in Crivitz, early that  
17 morning, where Allen goes every weekend and most  
18 of the family goes up too. Steven has gone up on  
19 Saturday morning. But about 10:30 on Saturday  
20 morning, Pam and Nikole Sturm find the Toyota  
21 they suspect, correctly, as it turns out, is  
22 Teresa's. As it turns out, is Teresa's, in the  
23 far diagonal corner of the salvage yard from  
24 Steven Avery's trailer.

25 As you might expect, law enforcement

1 officers descend on the property and the first to  
2 arrive are Manitowoc County Sheriff's Department  
3 officers at just about 11:00, in the morning, on  
4 the nose. And, folks, from that point forward,  
5 from 11:00 a.m. on Saturday, November 5, 2005,  
6 this is not so much a funnel approach, as you  
7 will see. It is a tunnel approach. It is a  
8 tunnel vision approach to this case.

9 All of the feelings about Steven Avery,  
10 all of those churning emotions, all of that,  
11 within the Manitowoc County Sheriff's Department,  
12 floods out. You can call it tunnel vision, you  
13 can call it investigative bias, but from that  
14 point on, this investigation is about Steven  
15 Avery and not much else.

16 From 11:00 in the morning on Saturday,  
17 November 5, 2005, before the police say they have  
18 even opened the car; before they say they know of  
19 any blood of any sort in or on the car; before  
20 anybody even knows whether this young woman has  
21 been hurt or killed, the focus is on Steven  
22 Avery.

23 Other people are asked, her male  
24 roommate; former boyfriend and current friend,  
25 Ryan Hillegas; others are asked: Do you know

1 anything about her disappearance? Did you have  
2 anything to do with it? All of them say no. And  
3 those denials, those statements are accepted.

4 Not Steven Averys, not Steven Avery's  
5 denials or expressions of innocence. Time and  
6 again the police go back to Steven Avery and ask  
7 the same questions. And he talks to them every  
8 time.

9 Even by the time his lawyers in the  
10 civil lawsuit down in federal court in Milwaukee  
11 find out about it and are trying to encourage him  
12 not to the talk to the police, he talks. On the  
13 3rd to Colborn, on the 4th to Lenk, on the 5th to  
14 officers up in Crivitz, on the 6th, on the 9th,  
15 he talks. And he is not believed. Do they want  
16 to go through his house, sure, come on in my  
17 house, on November 4, Lieutenant Lenk.

18 After the Toyota is found and the police  
19 arrive at about 11:00, that Saturday morning,  
20 Lieutenant Lenk and Sergeant Colborn come in to  
21 work and they too arrive at the Avery property.  
22 You will hear that Lieutenant Lenk now has  
23 changed his sworn version of when he arrived that  
24 afternoon.

25 And he has the ability to change his

1 sworn story about when he arrived that afternoon  
2 at the Avery property, because somehow he avoided  
3 signing in on the log, the log sheets that the  
4 Calumet County Sheriff's Department was keeping  
5 of that potential crime scene. He signed out,  
6 but somehow he managed not to sign in.

7 And on that 40 acre parcel, after the  
8 Toyota has been turned over to the Division of  
9 Criminal Investigation in Madison, now, as search  
10 efforts are to be begin on that parcel, now the  
11 Manitowoc County Sheriff's Department nominally  
12 turns over control of the investigation to  
13 Sheriff Jerry Pagel of the Calumet County  
14 Sheriff's Department, this county's sheriff's  
15 department. Nominally, that afternoon, control  
16 of this investigation was turned over to Calumet  
17 from Manitowoc because of the apparent conflict  
18 of interest that Mr. Avery's lawsuit represents  
19 for the Manitowoc County Sheriff's Department.

20 Now, if you are thinking, though, that  
21 the evidence will show you that Manitowoc County  
22 bowed out because of the conflict of interest  
23 after it turned the investigation over to Calumet  
24 County; if you are thinking that, it's  
25 reasonable, but you are wrong. Manitowoc County

1 Sheriff's Department stays very much involved in  
2 this investigation.

3 And what does Lieutenant Lenk and what  
4 does Sergeant Colborn do by way of volunteering  
5 to help, that very afternoon, Saturday  
6 November 5. Do they volunteer to help look in  
7 the 4,000 cars? No. Do they volunteer to search  
8 Allen and Delores Avery's home? No. How about  
9 the pole barns or the outbuildings of the salvage  
10 property's business itself? No. They volunteer  
11 to search Steven Avery's trailer. And they do,  
12 on November 5.

13 And once they get into that trailer with  
14 the search warrant, well, then, what these two  
15 do -- and there are two other officers with them,  
16 one from Manitowoc and one from Calumet -- what  
17 Lenk and Colborn do is, they say, don't worry,  
18 we'll take Steven's bedroom. And they search  
19 this bedroom.

20 Now, this is a mobile home. If the  
21 bedroom itself is 10 by 12, or 12 by 12, or 10 by  
22 10, I would be surprised if it was much bigger  
23 than that. From me to the wall in front of you  
24 is about the depth and roughly the width of that  
25 bedroom in the small trailer in which Steven



1 Avery lives.

2 They search, that is, Lenk and Colborn  
3 search his bedroom on the night of November 5.  
4 And they find nothing of interest. They see the  
5 guns; they stay on the wall. But don't bother  
6 seizing guns on the 5th, come back to those the  
7 next day. And it is Lenk and Colborn who come  
8 back the next day, not somewhere on the property,  
9 but to Steven Avery's trailer.

10 On November 6, they search his garage,  
11 garage is actually between him and his sister  
12 Barb's trailer, but for our purpose here, let's  
13 call it his garage. You will find out that the  
14 Dassey boys have access to the garage, Barb has  
15 access, the family has access to this garage.

16 But it's Lenk and Colborn and another  
17 detective from Manitowoc County named Dave  
18 Remiker who searched the garage on Sunday, the  
19 6th. They find 10, maybe it's 11, something, 10  
20 or 11 spent .22 casings. And they pick all of  
21 those up.

22 But remember -- remember the bullet  
23 that's found under little tent number 9 on the  
24 picture that Mr. Kratz showed you? The bullet  
25 that's apparently in a crack in the floor, right

1       smack in the middle of the garage near the front  
2       where the door is? That, no one sees or picks up  
3       on November 6th, November 7th, November 8th and  
4       so forth through November 12th.

5               Neither does anyone see a bullet back  
6       under the air compressor. But you will see  
7       photographs of that garage as it was in  
8       November 2005, not as it was in March, 2006,  
9       when, finally, low and behold, why there's  
10      bullets, why don't we pick up these bullets.

11             You will see the garage in photographs,  
12      not computer simulations, photographs, as it was  
13      in November, 2005. You will be able to see, that  
14      although the garage is very cluttered, there's no  
15      clutter under the air compressor. There's no  
16      clutter there, where four months later someone  
17      finds a magic bullet, there, as you walk into the  
18      garage, looking at the floor.

19             November 7, Steven Avery's trailer is  
20      searched again, guess who; Lenk and Colborn. Now  
21      there probably -- There certainly are over 50 law  
22      enforcement officers on this property, 24 hours a  
23      day, well before November 7th, probably by  
24      sometime late the night of the 5th, certainly by  
25      the 6th. There may be over 100 law enforcement

1 officers working this property.

2 They have got the family excluded. They  
3 have got a perimeter around the entire 40 acres  
4 and more. They are controlling traffic and  
5 entry. They are logging in who comes and goes.  
6 They control this place.

7 And as you heard Mr. Kratz say, they  
8 have got any number of people searching, but it's  
9 Lenk and Colborn, again, who are searching  
10 Mr. Avery's trailer, there in the northwest  
11 corner of that salvage yard. And on November  
12 7th, they find nothing of interest in his home.

13 Tuesday, November 8, they are back.  
14 They are back in Mr. Avery's home, back in that  
15 small bedroom. And now, Lieutenant Lenk, on what  
16 you will hear is probably the seventh search of  
17 that small bedroom, Lieutenant Lenk, now, when  
18 he's the only one in that room, says, why, my  
19 gosh, there's a key sitting in plain view, next  
20 to the night stand.

21 There is, you saw a picture of it as he  
22 says he found it, one solitary key on a ring,  
23 connected to a fob. That key fob is just like,  
24 and probably is, the one that Teresa Halbach's  
25 younger sister bought her as a little present.

1 One key, and one key only, on the ring connected  
2 to that fob, it's a Toyota key.

3 And the man whom the State would have  
4 you believe bled all over Teresa's car, manages  
5 not to bleed on her key. His blood isn't found  
6 there, although, apparently, somehow his DNA is,  
7 but not his fingerprints. And more  
8 interestingly, although this is a 1999 Toyota and  
9 I gather she's been using this key, the State  
10 believes, every day to start her car and turn it  
11 off, Teresa Halbach's DNA and fingerprints are  
12 not found on her key.

13 For good measure, on November 8,  
14 Lieutenant Lenk and Sergeant Colborn searched  
15 Steven Avery's garage yet again. No bullets, no  
16 nothing. And the case against Steven Avery,  
17 largely, is made at that point. And a whole lot  
18 of it, as you will see, depends on lieutenant  
19 James Lenk, Sergeant Andy Colborn.

20 And they, both of them, have elected  
21 never to tell Sheriff Jerry Pagel, the man in  
22 charge of the investigation for Calumet County;  
23 they have elected not to tell him that they had  
24 their depositions taken in Steven Avery's case  
25 probably three weeks earlier. They didn't tell

1 anybody in the Calumet County Sheriff's  
2 Department that.

3 November 8 is also the day that the bone  
4 fragments are found in a burn area hardly 20  
5 yards outside Steven Avery's master bedroom  
6 window. Hardly 20 yards. Small burnt bone  
7 fragments, human burnt bone fragments. But what  
8 you will learn and you do not hear this morning,  
9 what you will learn is that burnt human bone  
10 fragments also apparently are found in one of the  
11 burn barrels behind Barb Janda's house.

12 Burnt the same way, fragmented about the  
13 same way, and apparently human in origin. Not  
14 Steven Avery's burn barrel, not the one you heard  
15 about, but there are four burn barrels to the  
16 southeast, that is the most distant corner of  
17 Barb Janda's trailer, from Steven Avery's  
18 trailer. Four burn barrels back there for Barb  
19 Janda and the Dassey boys. Burnt bone fragments.

20 And there are what seem to be probable  
21 human burnt fragmented bones found in the Radandt  
22 Gravel Quarry, probably a quarter mile south of  
23 Steven Avery's property.

24 Now, I don't think that the State has  
25 been able to link, through DNA analysis, those

1       burnt bone fragments conclusively to Teresa  
2       Halbach.

3               But how many burnt human bone fragments  
4       are there supposed to be, and when you only have  
5       one person missing. And the burnt human bone  
6       fragments in the Janda burn barrel, about which  
7       you did not hear this morning, those are  
8       fragments from bones that are not connected, not  
9       part of one limb, not connected to one another  
10      within the human body. Sort of a random mix of  
11      bone fragments, as apparently are those that are  
12      found a quarter mile to the south in the Radandt  
13      gravel pit.

14             And as you piece this evidence together,  
15      here's what you are going to have to conclude,  
16      bone fragments, parts of this body were found  
17      where they were not burned. They were burned and  
18      moved because, again, the fragments aren't  
19      connected to one another.

20             It's not that, you know, it's not that  
21      an arm could have been removed and burned one  
22      place and the rest of the body another place. We  
23      have got the fragments themselves mixed up and  
24      found in three different places. The body  
25      couldn't have been burned in that way, in three

1 different places or even two, if you set aside  
2 the Radandt gravel pit. These bone fragments  
3 were moved.

4 The question then becomes, the question  
5 you will have to decide eventually is, were they  
6 moved from Steven Avery's burn area to the Janda  
7 burn barrel or the gravel quarry, or were they  
8 moved from somewhere else to Steven Avery's burn  
9 area and maybe to one of the other places where  
10 bone fragments, burnt, are found.

11 At least, did they start in the burn  
12 area and get moved somewhere else, or did they  
13 start somewhere else, burned somewhere else and  
14 get moved to the burn area. Now, an expert --  
15 experts here, in what scientists will call  
16 thermal injuries to bodies, cremation, an expert  
17 or two, to the extent you hear that, may be able  
18 to give you some help on that question, some  
19 help, but I'm not sure that an expert can answer  
20 this conclusively.

21 In the end, you folks are going to have  
22 to do the hard work and the hard thinking on  
23 that. But I think when you have heard it all,  
24 you will conclude that it's at least most likely,  
25 more probable, that the bones were moved to



1 Steven Avery's burn area, not burned there and  
2 moved from that area to another place or two.

3 Why? You are going to find out that  
4 there are better places, even on the Avery  
5 salvage yard property, in which to incinerate a  
6 body. The burn area is relatively flat and  
7 scooped out a little bit, but it's relatively  
8 flat and open. It's a burn area, like many farms  
9 or rural homes have, just folks have burn  
10 barrels.

11 It doesn't have well developed sides to  
12 focus heat back inward on the fuel or things  
13 being burned. Neither does it have a ready  
14 external source of fuel. But the aluminum  
15 smelter, the aluminum smelter at the Avery Auto  
16 Salvage property does. Big propane jets, an  
17 enclosed area, it will take an aluminum  
18 transmission down to liquid in a few minutes.

19 The wood furnace that heats the  
20 outbuildings of the Avery Auto Salvage business;  
21 Chuck's home; Allen and Delores' home, that's an  
22 enclosed area that will incinerate fuel in it  
23 very quickly.

24 And because we have got probable human  
25 burnt bone fragments found on the adjoining

1 property, the gravel quarry to the south, we  
2 can't rule out other possible burn sites. And an  
3 expert won't be able to tell you what other  
4 possible burn sites there are. Expert or not,  
5 that's not something he or she will be able to  
6 tell you.

7 But once it's more likely, as I think  
8 you will find it to be more likely, that the body  
9 is burned somewhere else and bone fragments then  
10 are brought to Steven Avery's burn area, then  
11 he's not guilty. Because if he's the one who  
12 burned the body somewhere else, he's not going to  
13 bring the bones back to dump them 20 yards  
14 outside his bedroom window.

15 Neither is he going to dump a cell phone  
16 and a digital camera and a palm pilot in his own  
17 burn barrel. Too many other places where these  
18 things could be disposed of out in the salvage  
19 yard, whether the retention pond, whether the  
20 gravel quarry, or some other burn barrel in the  
21 woods. So once you understand that those bones  
22 probably were not burned in that burn area, the  
23 fact that they are found there, you will see  
24 tends to suggest he's not guilty, not that he is.

25 It is perfectly clear to anyone around

1       this investigation on whom the focus of the  
2       Manitowoc County Sheriff's Department and the  
3       other investigators, to the extent that tunnel  
4       vision, that investigative bias bled over, it's  
5       perfectly clear on whom the focus of this  
6       investigation is.

7               The police didn't kill Teresa Halbach,  
8       obviously, they have that in common with Steven  
9       Avery, but they wanted to believe he did. They  
10      very much wanted to believe that he did. And  
11      whoever did kill her, or burned that body,  
12      exploited that tunnel vision pretty skillful.

13             Suggesting this sort of tunnel vision,  
14      suggesting this kind of investigative bias,  
15      planting blood in her car, fairly serious  
16      allegations to make. In fact, I will take away  
17      the fairly, they are serious allegations.  
18      Understand them, that bias and tunnel vision are  
19      human anomalies.

20             And if you conclude, reluctantly, that  
21      Mr. Lenk or Mr. Colborn, in addition to all the  
22      other interests they took in searching and  
23      focusing on Steven Avery, planted blood in her  
24      car, you will also conclude that they put it  
25      there because they figured it had to be there.

1           It should be there. It must be him.

2                       This wasn't so much, I think the  
3           evidence will show you, an effort to frame an  
4           innocent man, it was an intense, intense desire  
5           to conclude that he, in fact, was the guilty man;  
6           all other possible leads for information not  
7           withstanding. It was an immediate focus on this  
8           man, starting shortly after 11:00, Saturday,  
9           November 5, 2005. But you do not have to take my  
10          word for that.

11                      I can make this work; I'm not as adept  
12          at it as I should be. I'm going to play for you,  
13          two tapes, a part of it, just excerpts, short  
14          excerpts of two tapes.

15                      The first one is Saturday, November 5,  
16          2005, at 11:35 in the morning, 35 minutes give or  
17          take a minute or two, after the Manitowoc County  
18          Sheriff's Department first has arrived at the  
19          Avery property, because that Toyota has been  
20          found; well before the police say they opened the  
21          Toyota; well before they say they knew of any  
22          blood; well before Brutus, the friendly cadaver  
23          dog comes along and hits; 35 minutes after the  
24          first officers arrived when the Sturm's called  
25          and said, hey, we think we found something.

1                   What I'm going to do is scroll through a  
2 transcript that we prepared and then I will play  
3 the excerpt of the tape for you. It is not a  
4 great recording. The transcript is not evidence,  
5 the tape will be, I expect. So if you think my  
6 transcript is wrong, listen to the tape; it's the  
7 evidence, or it will be. That's the tape that  
8 matters. The transcript may help you in  
9 understanding it or hearing it.

10                  Detective Remiker is calling in, he's  
11 asking for dispatch. Dispatch responds, I put  
12 unintelligible, I think it's go ahead, but I'm  
13 not sure, you can decide. Maybe you won't  
14 understand it for sure either.

15                  Detective Remiker says to the  
16 dispatcher, you will need to get ahold of the  
17 Crime Lab for their evidence response team to  
18 start responding to this location. Now, he's out  
19 at the Avery Salvage Yard. As you will hear.  
20 Dispatch says, 10-4, Crime Lab out of Madison,  
21 Milwaukee, where?

22                  Our Crime Lab has branches in Wausau,  
23 Madison and Milwaukee. The main one is in  
24 Madison. Detective Remiker says, it's going to  
25 be the Madison response team and he was right.

1                   Now, Detective Jacobs joins in, this  
2                   radio traffic, radio conversation. Calls in with  
3                   his badge number, his squad number, I'm in code,  
4                   you will find out what that means, anything you  
5                   need other than a portable for Schetter. And  
6                   what you'll find out is he's talking about a  
7                   portable radio for Deputy Inspector Greg Schetter  
8                   of the Manitowoc County Sheriff's Department who  
9                   is, I think, the number two or three ranking  
10                  officer in the Department and who's probably also  
11                  going out to the Avery property. Detective  
12                  Remiker, not that I can think of right now,  
13                  Dennis. Dennis Jacobs. Let's see if this work.

14                               (Tape recording played.)

15                  DETECTIVE REMIKER: Yeah, need to get a  
16                  hold of the Crime Lab for their evidence response  
17                  to start responding at this location.

18                  DISPATCH: 10-4. Crime Lab out of  
19                  Madison, Milwaukee, where?

20                  DETECTIVE REMIKER: Madison response  
21                  team.

22                  DETECTIVE JACOBS: 278, I'm in code,  
23                  anything you need other than a portable for  
24                  Schetter.

25                  ATTORNEY STRANG: It cut off. Sorry about

1           that, you will hear -- You will get a chance to hear  
2           the whole conversation. And it continues, Dennis  
3           Jacobs says, okay, other than the car, do we have  
4           anything else. He's talking to Remiker here. Dave  
5           Remiker says, not yet. Detective Jacobs, Okay. Is  
6           he in custody? Detective Remiker, Negative, nothing  
7           yet.

8                       Not who, not is who in custody, but  
9           negative. He is not in custody, nothing yet.  
10          Detective Jacobs, Okay. I'll gather my stuff and  
11          head out.

12                       (Tape recording played.)

13                      DETECTIVE JACOBS: Okay. Other than the  
14          car do we have anything else?

15                      DETECTIVE REMIKER: Not yet.

16                      DETECTIVE JACOBS: Is he in custody?

17                      DETECTIVE REMIKER: Not yet, nothing  
18          happening.

19                      DETECTIVE JACOBS: Okay. I will gather  
20          my stuff and head out.

21                      ATTORNEY STRANG: Now, that's 11:35, is he  
22          in custody yet. Detective Remiker, clearly, I  
23          gather, as I hear it, knows who Detective Jacobs is  
24          talking about, but we don't, 35 minutes after the  
25          police have arrived.



1                   And to get a better feel for that  
2                   conversation at 11:35, we have to go back five  
3                   minutes earlier when Detective Jacobs is calling  
4                   in on the land line, 5 minutes earlier, 30  
5                   minutes, 30 minutes after the police have arrived  
6                   at the Avery property after Teresa's car has been  
7                   found there.

8                   Dispatcher answers the phone. Detective  
9                   Jacobs, Katie -- the name of the dispatcher --  
10                  just rolled into the parking lot. Can you tell  
11                  me, do we have a body or anything yet? Do we  
12                  have a body or anything yet? This is 30 minutes  
13                  after they found the car.

14                  I don't believe so. I believe they  
15                  wouldn't find the first bone fragment for three  
16                  days. Do we have Steven Avery in custody,  
17                  though? I have no idea. You can hear it  
18                  yourself.

19                  (Tape recording played.)

20                  DISPATCH: Good morning. Manitowoc  
21                  County Sheriff's Department, Katie speaking.

22                  DETECTIVE JACOBS: Katie, I just rolled  
23                  into the parking lot. Can you tell me, do we  
24                  have a body or anything yet?

25                  DISPATCH: I don't believe so.

1 DETECTIVE JACOBS: Do we have Steven  
2 Avery in custody?

3 (Tape recording starts playing again.)

4 DISPATCH: Good morning. Manitowoc  
5 County Sheriff's Department, Katie speaking.

6 DETECTIVE JACOBS: Katie, I just rolled  
7 into the parking lot, can you tell me do we have  
8 a body or anything yet?

9 DISPATCH: I don't believe so.

10 DETECTIVE JACOBS: Do we have Steven  
11 Avery in custody at all?

12 DISPATCH: I have no idea.

13 ATTORNEY STRANG: Now, I will finish it out  
14 so you can link it up to the call -- the discussion  
15 with Detective Remiker 5 minutes later. Oh, I heard  
16 him say pick up that party. Oh no, the dispatcher  
17 says, Pete, who is just another Manitowoc County  
18 Sheriff's officer, is sitting up there waiting and  
19 stopping people from going in and that. He found  
20 someone with a body only warrant for our department.

21 A body only warrant is an arrest warrant  
22 or a bench warrant where they are going to take  
23 the person into custody, rather than immediately  
24 grant him bail. Okay. Do we have -- All right.  
25 I will talk to Remiker. Yeah, your best bet is

1 to talk -- because nothing has come through. We  
2 have the vehicle, that I know. But more than  
3 that, I don't know. All right. Bye. Bye.

4 (Tape recording played.)

5 DETECTIVE JACOBS: Oh, I heard him say  
6 pick up that party.

7 DISPATCH: Oh, no. We have -- Well,  
8 Pete is sitting up there waiting and stopping  
9 people from going in and that. He found somebody  
10 with a body only warrant for our department.

11 DETECTIVE JACOBS: Okay. Do we have --  
12 All right. I will talk to Remiker.

13 DISPATCH: Yeah, your best bet is to  
14 talk to -- Nothing has come through. We have the  
15 vehicle, that I know.

16 DETECTIVE JACOBS: All right. Thank  
17 you.

18 DISPATCH: But what more, I don't know.  
19 All right. Bye.

20 DETECTIVE JACOBS: Bye.

21 ATTORNEY STRANG: So you can take the  
22 tunnel vision and investigative bias from them, not  
23 from me. Now, in the end here, in the end, when you  
24 have heard it all, there's not a speck of Teresa  
25 Halbach's blood anywhere in Steven Avery's trailer.

1       There's not a piece of hair, nothing, nothing to  
2       suggest she's ever been in the trailer. And only  
3       the magic bullet found 4 months later to suggest  
4       she's ever been anywhere near the garage.

5               And when you consider the forces, the  
6       emotions, the very human failings at work here,  
7       it's no surprise that the blood from that  
8       unsecured vial, in the box, in the Clerk's  
9       Office, that Lieutenant Lenk examined back in  
10      2002, ends up in that Toyota. Because that's  
11      where it ought to be. Is he in custody yet?

12             Jerome Buting and I will not ask you to  
13      make that kind of snap judgment here. The  
14      Halbachs deserve better than that. The police  
15      deserve better than that. You owe it to  
16      yourselves, in making this decision, to do better  
17      than a snap judgment, a snap judgment 30 minutes  
18      after that Toyota is found.

19             Jerome Buting and I are going to ask you  
20      to do your job right. Think long and hard about  
21      all of the evidence. But in the end, after the  
22      full and fair consideration of everything and  
23      everyone, the full and fair consideration that  
24      Steven Avery did not get in 2005, from the  
25      Manitowoc County Sheriff's Department; we're

1 going to ask you to send him home. We're going  
2 to ask you to send him home, again. We're going  
3 to ask you to get it right this time. We're  
4 going to ask you to set it right when this case  
5 is over.

6 THE COURT: Thank you, Mr. Strang. Members  
7 of the jury, we're going to take an afternoon break  
8 now. We'll resume in 15 minutes and the State will  
9 begin the presentation of evidence. I will remind  
10 you again, as I will a number of times throughout  
11 the trial, do not discuss the case during the break  
12 or at any other time until all the evidence has been  
13 received.

14 (Jury not present.)

15 THE COURT: All right. Counsel, we should  
16 be ready to go promptly at 2:45.

17 (Recess taken.)

18 THE COURT: At this time the State may call  
19 its first witness.

20 ATTORNEY KRATZ: State will call Mike  
21 Halbach, your Honor.

22 THE CLERK: Please raise your right hand.

23 MICHAEL D. HALBACH, called as a witness  
24 herein, having been first duly sworn, was  
25 examined and testified as follows:

1           photography business; can you tell us about that  
2           a little bit?

3       A.   Yeah, through college she developed a passion for  
4           photography and, hence, why she declared that as  
5           her major. I would say her sophomore and junior  
6           year she worked at Bay Park Square Mall in Green  
7           Bay at Picture People taking photos of children,  
8           mainly families.

9                       After she got done doing that, during  
10           her last semester at Wisconsin, Green Bay, she  
11           started this internship with Tom Pearce of Pearce  
12           Photography in Green Bay, doing many of the same  
13           things, taking pictures of children, families,  
14           some, and also doing weddings on the weekends.  
15           So she continued working with him and then later  
16           on in 2002, she started her business, which she  
17           named Photography by Teresa, which continued up  
18           until Halloween of 2005.

19       Q.   Now, you indicated that you are familiar that at  
20           least one of her clients was Auto Trader  
21           Magazine; is that what you told us?

22       A.   Yes, that's correct. She in, I think it was  
23           October of 2004, she started working for Auto  
24           Trader Magazine as a way to supplement her income  
25           for her professional business. Since she was

1 just starting out with her own business, she  
2 wouldn't always have clients. So. Yeah, just as  
3 a way to have some steady income, she got this  
4 job with the *Auto Trader Magazine* to take  
5 pictures of vehicles in people's yards, that they  
6 were selling themselves.

7 Q. First photo I'm showing you has been marked as  
8 Exhibit No. 7, can you tell us what that is,  
9 please?

10 A. Exhibit No. 7 is Canon PowerShot A310; it's the  
11 box for the Canon camera. It's not the camera  
12 itself.

13 Q. And, once again, were you familiar that that was  
14 one of the cameras that Teresa had used in her  
15 employment?

16 A. Yes, I am, in her employment with *Auto Trader*,  
17 yes.

18 Q. The other exhibit, I think it was Exhibit No. 6;  
19 is that correct?

20 A. That's correct.

21 Q. Can you tell me what that is, please?

22 A. It's a box for a Palm 1 Zire 31 palm pilot.

23 Q. And, once again, the large screen, does that  
24 accurately depict the box, again, recovered from  
25 your sister's home, the box that she saved for



1 Q. Can you tell me who Pam Sturm is?

2 A. Pam Sturm, to me, would be my first cousin once  
3 removed. She would be my grandma's sister's  
4 daughter.

5 Q. Okay. The involvement of Pam and her daughter,  
6 Nikole, after your sister was missing, could you  
7 describe that for the jury?

8 A. You said her involvement?

9 Q. Yes.

10 A. Pam Sturm was the person who ended up finding  
11 Teresa's vehicle on the Avery salvage yard. I  
12 recall coming home that day, after I had been  
13 with my brother driving, in her -- being inside  
14 my parents' house crying and my mom telling me  
15 that we found the vehicle -- or Pam found the  
16 vehicle, Pam and her daughter, Nikole. So, I  
17 guess that would be her involvement.

18 Q. All right. Let's go back just a little bit,  
19 Mike, if we can. After your mom reported your  
20 sister missing on the 3rd of November, how was it  
21 that you were informed of that?

22 A. On Thursday, November 3rd, I was working. I got  
23 a call from my mom that afternoon at about 2:00  
24 or 2:30 wondering if I knew where -- or if I had  
25 talked to my sister in the previous, you know,

1           since Sunday. And I said that I hadn't.

2                       And so I went on to call one of Teresa's  
3           good friends at her work and asked her if she had  
4           known where Teresa could be. Because it was  
5           completely unlike her to go somewhere without  
6           telling anyone, especially a family member, a  
7           good friend, her roommate, or her boss.

8                       So, I guess after we made those calls it  
9           became very evident to me that something was  
10          seriously wrong and I expressed that to my mom.  
11          Then shortly after -- and she was, you know, she  
12          was in agreement, obviously; she knew something  
13          was wrong, just like everyone else did.

14       Q.   Did the family ask for some assistance and did  
15           you receive it from some of Teresa's friends  
16           regarding searching for her?

17       A.   In searching for her we, you know, all we had to  
18           do was make a couple phone calls to some of  
19           Teresa's friends and they would call numerous  
20           other people. We needed help passing -- passing  
21           out posters on Friday, November 4th and also  
22           doing searches by car on Saturday, the 5th and  
23           doing searches by foot a few days following that.  
24           So, whenever we needed help, we had help from  
25           Teresa's friends, family members, community

1 A. I don't think on her computer, no.

2 Q. Okay. And you didn't have her voice mail?

3 A. I said I did -- did have her voice mail password.

4 Q. You did have her voice mail password. Okay. Did

5 you check voice mails?

6 A. I did.

7 Q. Do you remember when you did that?

8 A. It was probably Thursday evening, early evening.

9 Q. After your mom --

10 A. Yes.

11 Q. -- had --

12 A. Yes.

13 Q. -- filed a missing persons report?

14 A. Yes.

15 Q. Okay. So I take it you were at work earlier that

16 day?

17 A. Correct.

18 Q. And the missing person report was sort of at the

19 end of the day, 5:00 or something?

20 A. Correct.

21 Q. Were you familiar enough with Teresa Halbach's

22 everyday stuff to know what -- what she carried

23 keys to?

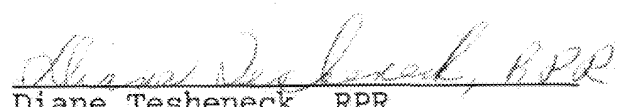
24 A. I mean, yes, I think I would have an idea of what

25 keys she would have, yes.

1 STATE OF WISCONSIN )  
2 ) ss  
COUNTY OF MANITOWOC )  
3

4 I, Diane Tesheneck, Official Court  
5 Reporter for Circuit Court Branch 1 and the State  
6 of Wisconsin, do hereby certify that I reported  
7 the foregoing matter and that the foregoing  
8 transcript has been carefully prepared by me with  
9 my computerized stenographic notes as taken by me  
10 in machine shorthand, and by computer-assisted  
11 transcription thereafter transcribed, and that it  
12 is a true and correct transcript of the  
13 proceedings had in said matter to the best of my  
14 knowledge and ability.

15 Dated this 5th day of October, 2007.  
16  
17

18   
19 Diane Tesheneck, RPR  
20 Official Court Reporter  
21  
22  
23  
24  
25